2-101
Mr Justice Davis
Submitted
13 Dec 75

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

~~No. 299.~~ 80

HENRY M. NEBLETT, APPELLANT,

vs.

JAMES E. MACFARLAND.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

FILED OCTOBER 23, 1873.

A Aud

SUPREME COURT OF THE UNITED STATES.

No. 299.

HENRY M. NEBLETT, APPELLANT,

vs.

JAMES E. MACFARLAND.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

INDEX.

	Original.	Print.
Bill of complaint	1	1
Exhibit A	17	5
B	22	7
C	24	8
D	26	8
E	30	10
F	36	11
G	36	12
H	38	12
Subpœna in chancery and	38	13
Marshal's return thereon	40	13
Answer to the bill	41	13
Answer to the interrogatories	45	15
Entry at rules, filing of answer	48	16
Replication	48	16
Entry at rules, filing of replication	50	16
Consent: time to take testimony enlarged	50	17
Consent: time to take testimony enlarged	51	17
Consent to issue commission	51	17
Commission for complainant	52	18
Interrogatories to James E. Macfarland	54	18
Interrogatories to Mrs. Caroline Macfarland	59	20
Cross-interrogatories to Mrs. Macfarland	64	21
Answers of James E. Macfarland	65	22
Exhibit A, (same exhibits transcribed at pages 5 and 22)	74	24
B	74	24
Letter annexed to plaintiff's answer to interrogatory 6th	74	24
Letter annexed to plaintiff's answer to interrogatory 6th	80	26
Letter annexed to plaintiff's answer to interrogatory 6th	82	27
Letter annexed to plaintiff's answer to interrogatory 6th	85	28
Letter annexed to plaintiff's answer to interrogatory 6th	89	29
Letter annexed to plaintiff's answer to interrogatory 6th	95	29

	Original.	Print.
Letter annexed to plaintiff's answer to interrogatory 8th	97	32
Letter annexed to plaintiff's answer to interrogatory 8th, (transcribed as Exhibit D, on page 26)	98	33
Letter annexed to plaintiff's answer to interrogatory 11th	99	33
Exhibit E, (see page 30)	104	35
Depositions of Caroline Macfarland	104	35
Letter annexed to Mrs. Caroline Macfarland's answer to interrogatory 3d	113	38
Letter annexed to Mrs. Caroline Macfarland's answer to interrogatory 8th	115	39
Letter annexed to Mrs. Caroline Macfarland's answer to interrogatory 8th	117	39
Letter annexed to Mrs. Caroline Macfarland's answer to interrogatory 8th	120	40
Letter annexed to Mrs. Caroline Macfarland's answer to interrogatory 8th	126	42
Letter annexed to Mrs. Caroline Macfarland's answer to interrogatory 13th	130	44
Notice of motion to appoint special examiner	133	45
Motion for special examiner	134	45
Depositions of Robert Mott and Shepherd Brown	134	45
Publication of testimony	141	47
Consent to submit cause on briefs	142	48
Decree: Extract from the minutes	142	48
Rule and grounds for a new trial	146	49
Hearing and submission of rule	147	49
Amended decree	147	50
Petition and order for appeal	152	51
Bond	154	54
Clerk's certificate	157	54
Citation	158	55

1 UNITED STATES OF AMERICA.

Circuit court of the United States, fifth circuit, and district of Louisiana.

JAMES E. MACFARLAND
vs.
HENRY M. NEBLETT. } No. 6440.

Bill of complaint.—Filed May 12th, 1871.

To the honorable the judges of the circuit court of the United States for the district of Louisiana:

James E. Macfarland, a citizen of the State of Virginia, and residing at the city of Richmond, in that State, brings this his bill of complaint against Henry M. Neblett, a citizen of the State of Louisiana, and residing in the parish of St. Martin.

1st. And thereupon your orator complains and says that your orator was the owner of a certain sugar plantation, known as the "Mossland"
2 plantation, situate in the parish aforesaid, and which is more particularly described in the papers which will be referred to and set forth as exhibits to this bill, and particularly in Exhibit E, under a conveyance from Adolph A. Mouton and E. H. Watel, and that he occupied and cultivated the same in the years 1858, 1859, 1860, and 1861, and that his title was unimpaired by any act of his until the occurrences hereinafter set forth.

2d. Your orator further complains & says that between the years 1861 and 1871 your orator was absent from the United States and passed the largest portion of his time in Great Britain, with the exception of a single visit to the United States in the year 1867, when he remained about six months.

3rd. Your orator further complains and says that, in the month of September, 1868, he received from one Sterling Neblett a communication, in which the said Sterling Neblett represented to your orator that the plantation of Mossland aforesaid was in a ruinous condition; that
3 there was great danger of its going to ruin, and there were debts resting on it which threatened to sweep it away; a copy of said letter is hereunto attached, marked "Exhibit A."

4th. Your orator further complains and says that the paper enclosed and described in the said letter as a blank deed was executed by your orator in the state & condition in which it was sent to him by said Sterling Neblett, and solely upon the considerations mentioned in said letter, and that the blank was subsequently filed by the said Sterling Neblett, or some person by his procurement and with his privity, or by the defendant; and that it was sent by your orator immediately after its execution to the said Sterling Neblett.

5th. Your orator further complains and says that since his return to the United States, on the 1st of January, 1871, your orator has discovered that the said Sterling Neblett, on the receipt of the said blank deed, executed by your orator in London, on the 19th of September, 1868, declined to accept the same, and placed the same in the hands of
4 William H. Macfarland, the uncle of your orator, of Richmond, in the State of Virginia, as will more fully appear from the letter of said Sterling Neblett to said William H. Macfarland, dated October 12th, 1868, a copy of which is hereunto attached and marked

"Exhibit G," and that the said blank deed remained in the custody of the said William H. Macfarland from the 12th of October, 1866, until on or about the 11th of August, 1869, as more fully will appear from the receipt of said Sterling Neblett to said William H. Macfarland for the return of said blank deed, a copy of which is hereunto attached and marked "Exhibit H."

6th. Your orator further complains and says that the said Sterling Neblett did not at any time carry out the conditions of his said letter to your orator or perform any of the acts promised in the same for the payment of debts therein; nor did he place the deed on record, nor take possession of the property under any of the proposed conditions in said letter; but, on the contrary, for a period of more than a year after receiving the said deed, insisted upon his proprietorship of the
5 debt described in his letter aforesaid, and in various letters to your orator proposed to establish the same in full force, and to novate the same by your orator's entering into new obligations for the payment thereof; and that no consideration was paid by him for said deed as declared therein.

7th. Your orator further complains and says that since his return to the United States he has discovered that the statements of the said letter were in several particulars false and deceitful, and that the purposes of the said Sterling Neblett were overreaching and fraudulent; that the said William H. Macfarland, the uncle of your orator, had not assented to the proposed arrangement of the said Sterling Neblett as contained in his letter, and that the same was not at any time agreed to by him, but, on the contrary, that he gave no countenance or encouragement to it; and your orator believes and avers that the said letter was written without the slighest privity on his part to the said proposition.

6 8th. Your orator further complains and says that his assent to the execution of the blank deed aforesaid, and its transmission to the said Sterling Neblett, was occasioned entirely by his confidence in the statements in the said letter of the said Sterling Neblett, as will fully appear by his answer thereto, a copy of which is hereunto attached and marked "Exhibit B."

9th. Your orator further complains and says that your orator made no reply to the various letters of the said Sterling Neblett written between the date of this letter and the 22d day of October, 1869, when he received from the defendant, Henry M. Neblett, the letter a copy of which is hereunto attached and marked "Exhibit C;" that this letter of the said defendant was the first communication addressed by the said Henry M. Neblett to —, and the first intimation from the said Henry M. Neblett of any connection with him in the matter, and that your orator forthwith made the answer, a copy of which is hereunto attached, marked "Exhibit D."

7 10th. Your orator further complains and says that, notwithstanding the protest aforesaid, the said defendant, Henry M. Neblett, placed upon the records of the parish of St. Martin aforesaid a paper, a copy of which is hereunto attached, marked "Exhibit E," being the same paper executed by your orator in London on the 19th day of September, 1868, and which had been sent by him to the United States in that year, except as to the blanks in the deed, and proceeded to take possession of the said plantation of "Mossland," together with all the animals, stock, plantations, implements, and furniture thereon, and has held and occupied it from that time to the present, receiving large profits from the cultivation thereof, and wholly excluding your

orator from the same, and claims the same under the said deed and the additions made thereto after its return to the United States, and acknowledges no right or title in any other party to the said property, or payment thereon.

11th. Your orator further complains and says that the
8 bond alluded to in the said letter of the defendant remained in the hands of Mrs. Caroline Macfarland, the stepmother of your orator, until about three weeks ago, when your orator obtained it for the purpose of being produced to this court and formally tendered to the said defendant, which he now does, and deposits the same in the registry of the court for that purpose, and attaches a copy of the same to this bill as Exhibit F.

12th. Your orator further shows that the endorsements on the said bond are in the handwritting of the said Sterling Neblett, the father of the said defendant, as is the writing on the face of the bond of the word "paid;" and that the said bond, if transferred to the said defendant, was transferred on or about the date of the procurement of the said deed and the sending of the said bond, as disclosed in the letter aforesaid, marked "Exhibit C," and without any consideration paid therefor.

9 13th. Your orator further complains and says that the consideration of the said bond set forth in Exhibit F consists of the following items and sums of money, to wit, eight thousand four hundred and fifty-three dollars and thirty-two cents, one thousand five hundred and twenty-one dollars and four cents, five hundred dollars, one hundred and fifty dollars, eight hundred and seventy-five dollars and sixty-four cents, and four hundred dollars, making a total of eleven thousand nine hundred dollars; the same being money lent and advanced to your orator on or about the 21st January, 1861, by the said Sterling Neblett, in the State of Mississippi, where the said bond was made and where the said Sterling Neblett was then present on his plantation; that the interest on the said sum of eleven thousand nine hundred dollars was computed for two years and included with the principal in the face of the said bond, and was computed at the rate of ten per centum per annum for every six months, and so included in said bond until the 21st January, 1863, the maturity of said bond, as from the following calculation will
10 more fully appear, to wit:

Original principal, $11,900 00, on 21st Jany., 1861;
595 00, int. to 21st Jany., 1861, at 10 per cent. per annum.
$12,495 00, new principal;
624 75, int. to 21st Jany., 1862, at 10 % per annum.
$13,119 75, new principal;
655 98, int. to 21st July, 1862, at 10 % per annum.
$13,775 73, new principal;
688 78, int. to 21st Jany., 1863, at 10 % per annum.
$14,464 51, principal on face of said bond.

And that the same was usurious, under the laws of the State of Mississippi, and that your orator reserves all of his defences against the said bond, but the said defendant is entitled to the same as it was when he placed it with Mrs. Caroline Macfarland, and that the credit on the said bond does not represent any payment on the same of that date.

14th. Your orator further complains that the said deed set forth
11 in the Exhibit E has been fraudulently perverted from the use and purpose for which it was originally made, and for a consideration to which your orator has not consented; and that the said defendant, in accepting the same, and in taking possession of the property of your orator under it, and denying his title and possession, is a possessor in bad faith, and accountable as such in this court; that his letter of the 29th September, 1869, and the endorsement on the said bond, show that he holds the bond of your orator by the voluntary assignment and transfer of his father, and that he has assumed the burden of his father's wrongful and deceitful acts in the premises, as he claims all of the advantages and benefits to accrue from it.

15th. Your orator further shows that the said Sterling Neblett cannot be made a party to this bill, as he is a citizen of the State of Virginia, and is beyond the jurisdiction and process of this court, and that he is not an important party, as he has assigned and transferred
12 to the defendant his claims & pretentions.

16th. Your orator further shows that William H. Macfarland is also a citizen of the State of Virginia, and beyond the jurisdiction of this court, and makes no claim under the said deed of your orator, and has never asserted any claim, and is entirely satisfied that the same should be cancelled, and will file his consent thereto if needed.

To the end, therefore, that the said Henry M. Neblett may be made a party to this bill, and that he may full, true, and perfect answer make, from the best of his knowledge, remembrance, information, and belief to this bill, and especially that he may answer the several interrogatories at the foot of this bill, being numbers one, two, three, four, five, six, seven, eight, nine, ten, eleven, and twelve.

And your orator prays that the said Henry M. Neblett be compelled to produce to this court the original of the paper executed by your orator in the city of London, and dated 19th September, 1868,
13 which he refers to in the letter marked "Exhibit C," and that your honors may decree a cancellation of the same, and an erasure of the same from the records of the registry of conveyances in the parish of St. Martin aforesaid, and a reconveyance to your orator of the property described therein, and that be required to account for all of the rents, profits, and issues from the said plantation since he became possessed thereof, and for all the animals, stock, plantation implements, and furniture that were on said plantation when he took possession thereof; and your orator prays for a writ of injunction forbidding and restraining the said defendant from alienating or in any way encumbering the said property, and for the writ of subpœna, and such other relief as may be consistent with the facts of this cause, and as may be required by the principles of equity and good conscience.

(Signed) J. H. CAMPBELL.
(do) HUDSON & FEARN,
Solicitors for Complainant

14 Interrogatories.

No. 1. When did you enter upon the Mossland plantation; how long have you occupied it, and do you occupy it at this time? What animals, stock, plantation implements, and furniture did you find there, and what have you now in possession?

No. 2. When did you get the paper described in this bill, and set forth as Exhibit E; what blanks were in that paper when you received

it and what blanks were in it when you first saw it, or at any time afterwards? State each and every insertion that was made in that paper to supply the imperfections or blanks therein, and state by whom, at whose instance, and when they were filled. Attach the original to your answer.

No. 3. When was your name inserted, and when was the consideration therein mentioned inserted; and by whom, and for what purpose?

No. 4. When was the bond of the plaintiff set forth as Exhibit F assigned to you by Sterling Neblett; at what place, for what pur-
15 pose, and for what consideration? What did you pay for that bond, and to whom did you make payment?

No. 5. Did you ever see the letter of Sterling Neblett to the plaintiff, or a copy of that letter set forth as Exhibit A, and the answer thereto, marked "Exhibit B?" When and where did you see them, or either of them? Were they not exhibited to you by Sterling Neblett, in the year 1868, before the date of the letter written by you to the plaintiff, marked "Exhibit C," dated September 29th, 1869?

No. 6. Did you see any other letter of Sterling Neblett to the plaintiff, in the year 1868 or the year 1869, subsequent to that letter written by you to the plaintiff, and marked "Exhibit C?" Have you copies of these letters?

No. 7. Where was the letter dated September 29th, 1869, and marked "Exhibit C," written by you to the plaintiff, prepared and posted?

16 No. 8. Did your father see that letter before it was sent? Was he at the same place when it was written? Was it exhibited to him before it was mailed? Was he in any way whatever concerned with the preparation of that letter?

No. 9. Did you see the answer to that letter, of which Exhibit D is a copy? Who saw the letter? Did your father see it shortly after its receipt, and read it before you saw it?

No. 10. Was your father consulted about the surrender of the bond of the plaintiff to Mrs. Caroline Macfarland, the step-mother of the plaintiff? Was not the bond assigned and delivered to you, that you might send it back? When, and by whom, was the word "paid" written on it, and for what purpose?

No. 11. Who made the entry of the credit on that bond? Do you not know that no such payment was made as is described? What does that entry represent? State exactly what you know on that subject.

17 No. 12. Have you or your father paid anything to Broussard, or to Mendoza, or to William H. Macfarland on account of that transaction?

The defendant is required to answer the interrogatories numbers one, two, three, four, five, six, seven, eight, nine, ten, eleven, and twelve.

(Signed) J. A. CAMPBELL,
(do) HUDSON & FEARN,
Solicitors for Claimant.

EXHIBIT A.

Mr. JAS. E. MACFARLAND:

DEAR SIR: I have just been informed of your address. Allow me to call your attention to your parting words—"You may be assured I will do everything that I can for the benefit of my creditors." That is all I ever (see my letter) expected of you, & it is now what I ask you to do. My health has continued bad & never expect to do much, yet I am

preparing to go south in Oct. or November, & desire to close our matters on the Tesché. Joseph McGuire, the trustee, is dead in Bolivar,
18 & to close the deed there, it is necessary for you and me to sign the enclosed instrument to get the circuit court judge to appoint a new trustee on the 26th Oct. to foreclose the deed in Bolivar, to do which the lawyer & trustee will certainly charge me 5 p. c. on the debt, say $1,000 to $15,000, better saved now than to be risked on Mossland. & how can that be done? Easily. Instead of closing the trust-deed, (& go to that expense,) you now legally execute the deed I now send you in blank; return it to me promptly. I will(with Henry) go to Mossland, & do the best we can with the property, & I propose to buy Broussard's debt, (about $5,000,) & from a sale of the place I propose to divide the proceeds between S. Neblett's bond & William H. Macfarland's bond, his debt, & he told me he would be pleased with such arrangement. Your deed directly to Henry supersedes any & all law proceedings. On your returning directly your deed of sale, I will deliver your bond to your order, say to whom, & you will owe me nothing. We will be even.

Think & you will see & agree with me this is the best, quickest
19 plan, cheapest to dispose of Mossland, now useless to yourself & creditors; & the buildings, sugar-houses, and machinery need attention & preservation. I am informed Mendoza is living there, got judgment against you, (& for what,) and under that advertised to sell 1st Saturday in October all your house furniture, plantation tools, carts, wagons, cows, and & all other personal property I suppose, as he is foreigner, & the negroes there, 15 or 20, protected, saved this property. He put up an account & got judgment on it. Henry has written to him asking him to postpone, put off his sale, until his arrival there, say November. Strange he preserved your beds & all your house furniture. I am told & expect to get it, I suppose, for "a song."

Your uncle William gets nothing. I get nothing as the property now stands. Surely you will execute the deed promptly. Let us close up Nov. or Dec. Sell then or try to make a crop next year. Henry settling on it if he must, can do nothing else with, or rent it out if he can.

Last year it was rented for $800 only, pitifull shame to let so
20 costly property be unproductive.

The lawyers advise an attachment & suit & sale. Yes, they want fees—10 p. c. on the debt. Surely you will do away with any necessity for this.

Mendoza has written several letters to Henry, & in his of the 25th July he makes this valuation of the property, thus:

The worth of Mossland—price in 1860:

1,400 arpents, at $50 per arpent	$70,000
The improvements on the place	$30,000
	$100,000

Price or sale (no money) in 1868:

1,400 arpents of land, at 10 pr. arpent	$14,000
The improvement on the place	22,000
	$36,000

He then says: "Make any man sick to price a plantation now. 300 hogsheads of sugar can be made, (first year;) will bring more money than the plantation can be sold for now, 1868. I am in favor of making sugar.

The time to do it is matured," the time to mature for selling has not matured. Again, he says, Judge Simon, in 1867, made 115 hogs-
21 heads sugar, (small place;) sold it at in the sugar-house for $22,000 cash.

Now, my dear sir, suppose you sell it to a capitalist or get one to join you; go ½ or ⅓ or ¼, & you settle on it & make sugar. A gentleman told me, when he told Mr. Broussard you were in Europe & would not return, he wept, shed tears, and said, "Macfarland was a noble gentleman, and if he had staid on Mossland, I would never trouble him; would loose my few thousand dollars, rather than inconvenience him."

We all commit errors, & you ought to have remained on Mossland, a large productive estate.

Enclosed, the copy of a deed; you know how to execute it to have it probated in Louisiana from England. The cost of doing so draw on me or your uncle William; either will pay it. Directly send the deed to me or your uncle William, and will by express send it for record in St. Martin's, in Louisiana, & we will try to induce Mendoza not to sell your house furniture, &c., &c.

Answer promptly; important to do so. Miss Caroline Osborn
22 & Lina are with us. Your mother at Norfolk to take the salt-bath.

Your aunt Ann & Nannie unite with me in best wishes for your health and happiness.

Very truly,
(Signed) STERLING NEBLETT.

BRICKLAND, P. O., LUNENBERG, VA.,
August 21*st*, 1868.

Your bond to me, $22,200. The deed is a quit-title to Henry for this bond.

EXHIBIT B.

LONDON, *September* 19*th*, 1869.

Dr. STERLING NEBLETT:

DEAR SIR: I have just received yours of the 21st ult.; with deed accompanying it in blank, enclosed for my signature and authentication. If in the words "you may be assured I will do everything I can for the benefit of my creditors," you may not have quoted my precise language, you have undoubtedly conveyed with absolute correctness my sentiments, and the motives by which I have been alone governed since unhappy events have made me penniless.

23 Your proposal to purchase Broussard's debt, and from a sale of the place to divide the proceeds between S. Neblett's bond and Wm. H. Macfarland's bond, which arrangement you add the latter "would be pleased with," meets my ready acquiescence as being satisfactory to the parties chiefly interested.

A delay of a few days will be required to obtain the necessary authentication of the deed in question. Mr. Benjamin, from whom I desire to have precise information as to the forms required for its proper execution and admission to probate, being now absent from London, and on a visit to his family in France. I shall accordingly without delay write to him, and hope to be in the possession of the desired information in time to enable me to return you the instrument per steamer sailing for New York on the 19th or 23rd inst., at latest. Reciprocating the best wishes of yourself and circle, I remain,

Very truly, yours,
(Signed) J. E. MACFARLAND.

24 P. S. As regards the grounds upon which Mr. Mendoza has obtained judgment against me, I am as ignorant as a babe unborn. I was in no respect a party to his appointment to the management of the place, nor have I ever held the slightest intercourse with him in reference to it. I am obliged to you for your efforts to save my household furniture from, I believe, an unjust and groundless claim.

Any communication you may address me in future, please send to care of John G. Witt, esq., 11 Kings' Bench, Temple.

EXHIBIT C.

Mr. JAMES E. MACFARLAND.

DEAR SIR: As you desired your house furniture should be preserved from Mendoza's judgment, your deed lay in the hands of our uncle as an escrowl.

Now, I have received it, and by your request have delivered to your mother your bond, the consideration of your sale of Mossland to me.

25 The heavy claim of Broussard, about $12,000 now, and the Mendoza judgment, about $4,000 now, vs. Mossland, seems to have decided uncle William not to unite with me, and furnish ½ funds to make sugar until we could sell—at this time no sale—and with me I have hesitated whether to abandon the place or struggle to save something by borrowing large sum, and risk of forced culture in latitude 30¼.

The trust deed of Bolivar kept Mendoza off. That being satisfied by endorsing on face of your bond, paid. He may sell furniture, stock, and whatever he can. I shall go to Mossland, dilapidated as it is, repair as I can, and abide consequences—make sugar if I can, sell my title when I can. Universal ruin and suffering at the South, as great as the crusade in Palestine. Mother and father, and all our circle desire to be kindly remembered to you, with best wishes for your health and happiness.

Yours truly,
(Signed) HENRY M. NEBLETT.

BRICKLAND P. O., LUNENBERG, VA., *Sept. 29th*, 1869.

26 Rotchford, Brown & Co. have just sent in a claim to Va. against J. E. Macfarland, &c., for over $2,000—for what purpose I know not—to collect, I suppose.

EXHIBIT D.

Fiat justitia ruat cœlum.

4 THE GROVE, BOLTONS,
London, Oct. 22, 1869.

HENRY M. NEBLETT, Esq.

DEAR SIR: I am in receipt of yours of the 29th ult., in which you inform me of your purpose to go to Mossland, and take possession of the property under a deed of sale executed by me here in September, 1868, in your favour.

I beg leave to call your attention to the circumstances under which the above instrument was executed by me.

I have before me a letter from your father, Dr. Sterling Neblett, dated August 21st, 1868, from which I append the following extracts:

"The deed I now send you in blank, return it to me promptly.
27 I will, (with Henry,) go to Mossland, and do the best we can with the property, and I propose to buy Broussard's debt, (about $5,000,) and from a sale of the place I propose to divide the proceeds between S. Neblett's bond and William H. Macfarland's bond, and he told me he would be pleased with such an arrangement.

"Your deed to Henry supersedes any and all legal proceedings. Think, and you will see and agree with me this is the best, quickest plan, cheapest to dispose of Mossland, now useless to yourself and creditors.

"Your uncle William gets nothing. I get nothing as the property now stands.

"Enclosed the copy of a deed; you know how to execute it to have it probated in Louisiana from England. The cost of doing so draw on me or your uncle William—either will pay it directly. Send the deed to me or your uncle William, &c., &c."

28 The conclusions naturally drawn by me from the above statements were the considerations, and the sole considerations, which induced me to affix my signature to the deed referred. In confirmation of this, it is only necessary for me to quote a portion of my letter to your father in reply:

"LONDON, *Sept. 9th*, 1868.

"Dr. STERLING NEBLETT.

"DEAR SIR: I have just received yours of the 21st ult., with deed accompanying it in blank.

"If in the words, 'you may be assured I will do everything I can for the benefit of my creditors' you may not have quoted my precise language, you have undoubtedly conveyed with absolute correctness my sentiments, and the motives by which I have alone been governed since recent unhappy events have left me penniless.

"Your proposal to purchase Broussard's debt, and from a sale of the place to divide the proceeds between S. Neblett's bond and Wm. H. Macfarland's bond, which arrangement you add the latter 'would
29 be pleased with' meets my ready acquiescence, as being satisfactory to the parties chiefly interested."

The arrangement thus proposed by your father in his letter to which the above was a reply, is clear and specific; it embodied a just and equitable composition and adjustment of liabilities to my creditors, and obviated, as he assured me, all recourse to legal proceedings. Upon his own explicit statement it had already been submitted to my uncle, Mr. Macfarland, receiving his full assent and concurrence.

Subsequent letters from your father now in my possession, written with the view of engaging me to execute a new bond to him, and stating that it was the intention of the latter to oppose your claim to the property in question; that he had "declined to unite with you and raise money to buy out opposition," &c., &c., seem to me not only irreconcilable with the assurances above referred to, but, united with other facts which have come to my knowledge, indicate a determination on his part to contest your right to take possession of Mossland under
30 the deed in question, and to institute legal measures to enforce his claim to a joint ownership with me of the property referred to.

I, therefore, in the interests of truth and justice, hereby formally protest against your assumption of title to Mossland under the deed of sale of Oct. 1868, executed by me under a total misapprehension of the facts

based upon statements in your father's letter to me of the 21st Aug., 1868, re-affirming as I have heretofore done, that William H. Macfarland, of Richmond, is justly entitled to one-half the property, real and personal, of said estate of Mossland, situated in Louisiana, and purchased by me of Messrs. Mouton & Walet, of the same State.

I shall enclose a copy of this letter to Mr. Macfarland, and remain

Yours truly,

(Signed) J. E. MACFARLAND.

EXHIBIT E.

31 To all whom these presents shall come:

I, Henry Comfort Cheeseweight, of the city of London, notary public by royal authority, duly admitted and sworn, do hereby certify that on the day of the date hereof, I was present and did see James Edward Macfarland, the vendor named in the paper, writing, or deed of transfer and sale hereunto annexed of the sugar plantation "Mossland," and other properties and rights therein fully described, duly sign, seal, and execute the same in my presence, and in the presence of the two subscribing witnesses, and that the name "J. E. Macfarland" thereto subscribed is of the own, true, and proper handwriting of the said James Edward Macfarland, and that the signatures "J. F. Lichtblow" and "T. C. Duggan," thereto subscribed as the witnesses thereto, are of the respective proper handwriting of Julius Frederick Lichtblow and Thomas Charles Duggan, both of this city and clerks to me, said notary.

In faith and testimony whereof I, the said notary, have here-
32 unto subscribed my name and affixed my seal of office, at London aforesaid, this 19th day of September, in the year of our Lord one thousand eight hundred and sixty-eight.

(Signed) H. C. CHEESEWEIGHT,
Notary.

CONSULATE OF THE UNITED STATES OF AMERICA AT LONDON.

I, Freeman H. Morse, consul of the United States of America for London and the dependencies thereof, do hereby make known and certify, to all whom it may concern, that Henry Comfort Cheeseweight, who hath signed the annexed certificate, is a notary public, duly admitted and sworn, and practicing in the city of London aforesaid, and that to all acts by him so done full faith and credit are and ought to be given in judicature and thereout.

In testimony whereof I have hereunto set my hand and affixed the seal of the consulate of the United States of America, at London
33 aforesaid, this 21st day of September, in the year of our Lord one thousand eight hundred and sixty-eight, and in the ninety-third year of the Independence of the United States.

(Signed) F. W. MORSE.

Before me, a notary public in and for the city of London, and in the presence of the subscribing witnesess, personally appeared James Edward Macfarland, a citizen of the United States of America, who by these presents doth convey, transfer, and sell to Henry M. Neblett the following property, to wit: A sugar plantation, situated in the parish of St. Martin, in the State of Louisiana, United States, known by the name of Mossland, on the right side of Bayou Téche, measuring twenty-

one arpents on said bayou, with a depth running back as far as Lake Martin, the said property or tract of land being bounded in front by the said bayou, back by said lake, north by the plantation belonging to Valery Martin, & below by the plantation of Sevigne Broussard, together with said land or property, all the buildings, improvements, and appurtenances thereunto belonging, to said vendors.

This property is the same the said Macfarland purchased of
34 Mouton & Walet, by deed, 7th January, 1857 ; and the said Macfarland doth further sell and convey to the said Henry M. Neblett all his right, title, and interest, as owned, of the aforesaid property, to a real servitude, consisting in the right to cut wood on a tract of land situated opposite to it, on the left bank of the Téche, this right of servitude being specially set forth in the act of transfer from Charles Tertrou ; and the said vendor does further convey and transfer to the said vendee all his right, title, and interest in a cypress swamp, known as the Vital Plantation Swamp, which measured eight arpents front by forty in depth, the said right and title being the same acquired from the said Charles Tertrou ; and the said vendor doth hereby sell and convey all his right, title, and interest to the following land, to wit : A certain tract of land situated in the parish of St. Martin, on the right side of the Bayou Téche, measuring six arpents front on the said bayou to Cheniere Neuville, and bounded above by land of the late Brous-
35 sard, deceased, and below by a tract of land belonging to the succession of the late Joseph Castille. The said tract of land was purchased of Mouton & Walet jointly. This is the interest or title hereby conveyed by the present vendor to the said Henry M. Neblett, and it is hereby stipulated that the land under consideration contained at least three hundred and thirty superficial arpents.

The present sale of said sugar estate, land, improvements, and all the rights, privileges, and immunities thereto attached and belonging, is made for and in consideration of the sum of twenty-two thousand two hundred dollars, cash, paid by the vendee to the vendor, the receipt whereof is hereby acknowledged.

In witness whereof I, the said James Edward Macfarland, have hereunto set my hand and seal, in London, this nineteenth day of September, in the year one thousand eight hundred and sixty-eight.

(Signed) J. E. MACFARLAND.

Signed, sealed, and delivered by the said James Edward Macfarland in the presence of—

J. F. LICHTBLOW,
T. C. DUGGAN.

36 Quod attestor.

(Signed) H. C. CHEESEWEIGHT,
Notary.

EXHIBIT F.—*Filed May 12th*, 1871.

$14,464.51. On or before the twenty-first day of January, eighteen hundred and sixty-three (1863,) I bind myself and heirs to pay to the order of Sterling Neblett fourteen thousand four hundred and sixty-four dollars and fifty-one cents, with an interest of ten per cent. thereon after maturity to final payment.

Signed and sealed this twenty-first day of January, eighteen hundred and sixty-one, at Bolivar, Mississippi.

(Signed) J. E. MACFARLAND. [SEAL.]

Paid. (Endorsed twice on the face.)

(Endorsed:) $250. 1867, January 1st. Credit by two hundred and fifty dollars.

(Signed) S. NEBLETT.

Pay to order of Henry M. Neblett without recourse.

(Signed) STERLING NEBLETT.

EXHIBIT G.

Mr. MACFARLAND:

37 DEAR SIR: Yours of the 8th inst. received, and it appears you have not given attention to see the difficulties to be removed and provisions to be made, to adjust James Edward's matters. If Mendoza be correct, as he has just advised, that there are numerous debts and some judgments against Mossland—liens on the property that Henry nor I did not know of—the trust-deed on record at St. Martin's gives the only protection against them. It is prudent for you to be the custodian of James Edward's deed until it be ascertained if it has any vitality.

Henry is absent, and has long been the true owner of James Edward's bond. I thought you, if interested, and my aid to Henry, could arrange matters. But, alas! so far unsuccessful; debts to others; less and less probability of buying Broussard's bonds. We could not get copies of Broussard's bonds, nor his contract of sale in hands of Judge Boysan, I was informed; hence I am more suspicious Broussard's lien is a myth.

How much money will you provide Henry if he decides to go?

38 Very truly,

(Signed) STERLING NEBLETT.

OCTOBER 12TH, 1868.

It is clearly shown James Edward made this deed for your special benefit, if used. He should have mailed it to you, and not to me. I decline to accept it.

James Edward says "the authentication of the deed cost (4£) L4." Will you send it to him?

JAMES EDWARD MACFARLAND,
11 *King's Bench Walk, Temple, London.*

(Care J. D. G. Witt, esq.)

Have the taxes on Mossland been paid?

EXHIBIT H.

Received of W. H. Macfarland the deed to Henry M. Neblett, by James Edward Macfarland, heretofore by me turned over to him, agreeing that his position shall not be affected, nor injury sustained by him by allowing me to recall the deed. Aug. 11, '69.

(Signed) STERLING NEBLETT.

Subpœna in chancery.

UNITED STATES OF AMERICA:

The President of the United States to the marshal of the dis-
39 trict of Louisiana, greeting:

You are commanded to summon Henry M. Neblett, a citizen of the State of Louisiana, to appear before the honorable the judges of the fifth judicial circuit of the United States of America, at a circuit court to be holden on the first Monday of June, 1871, then and there to answer a bill in chancery, filed against him, wherein James E. Macfarland, a citizen of the State of Virginia, is complainant, and said Henry M. Neblett is defendant.

Herein fail not, and have you then and there this writ, with your endorsement thereon, how you have executed the same.

Witness the honorable Salmon P. Chase, Chief-Justice of the Supreme Court of the United States of America, this 12th day of May, in the year of our Lord one thousand eight hundred and seventy-one, and the 95th year of American Independence.

[SEAL.] (Signed) D. URBAN, *Clerk*,
By F. B. VINOT, *Dy. Clerk*.

40 The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court, on or before the first Monday of June, 1871, otherwise the bill may be taken pro confesso.

(Signed) D. URBAN, *Clerk*,
By F. B. VINOT, *Dy. Clerk*.

Marshal's return.

Received May 12th, 1871, by the U. S. marshal, and on the 22d day same month and year served a copy of the within subpœna in chancery on the within-named Henry M. Neblett, by leaving the same at his domicil, "Neblett's plantation," in the parish of St. Martin, La., in the hands of E. M. Stokes, his agent, a person apparently above the age of 14 years, residing at said domicil; the said H. M. Niblett being at the time of service.

All of which I learned by interrogating the said E. M. Stokes.

Distance from defendant's domicil to the city of New Orleans is 200 miles.

New Iberia, La., May 23rd, 1871.

(Signed) E. H. RIDDELL,
Dy. U. S. Marshal.

41 *Answer filed August 2d*, 1871.

Circuit court of the United States for the district of Louisiana.

JAMES E. MCFARLAND
vs.
HENRY M. NEBLETTE. } No. 6440. Answer to bill in equity.

The answer of Henry M. Neblett, defendant, to the bill of complaint of James E. McFarland, complainant.

This defendant now, and at all times hereafter, saving and reserving unto himself all benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties, and other imperfections

in the complainant's bill of complaint contained, and for answer thereunto, or unto so much and such parts thereof as this defendant is advised is or are material or necessary for him to make answer unto, saith in answering:

That he is now the owner and possessor of the Mossland plantation, situate and lying in the parish of St. Martin, in the State of Louisiana, particularly mentioned, and described, and referred to in complainant's bill of complaint.

42 That he took possession of the said property in the month of October or November, 1869, by virtue of a certain deed or bill of sale executed to defendant by James E. McFarland, in the city of London, on the 19th day of September, 1868, a correct copy of which is attached to complainant's bill of complaint, and marked "Exhibit E."

That the said deed or bill of sale came into the possession of defendant in the month of August or September, 1869, the defendant being at the time of its reception in the State of Virginia.

That shortly after its reception this defendant proceeded to the parish of St. Martin, the State of Louisiana, and took possession of the said Mossland plantation, occupying and cultivating the same as the owner thereof.

And, further answering, saith that the price paid by him for the said Mossland plantation is fully and correctly set forth in the deed or act of sale of September 19th, 1868, at which time and date defendant was a creditor of James E. Macfarland in the full sum of twenty-two

43 thousand two hundred dollars, as is evidenced by a bond annexed to complainant's bill of complaint, marked "Exhibit F." That acting in accordance with and in obedience to instructions from the said complainant, this defendant did, on the reception of the title to the said Mossland plantation, cancell said bond, of which he was the holder and owner, by marking the same paid, and delivered it thus cancelled to Mrs. Caroline McFarland, the person appointed and indicated to take charge of the same by the complainant.

Defendant, further answering, saith that he pleads ignorance of so much of complainant's bill of complaint as refers to the acts of Sterling Niblett, and craves leave to refer the same to the said Sterling Neblett for answer thereto.

Defendant, further answering, avers that he has held the said plantation in good faith, and that he has had no notice that the title to the same was not good, until the institution of this suit, and he has made

44 heavy disbursements and incurred great expenses in improving the same and repairing the building and fences thereon.

Defendant further answers that the original act of sale or title-deed of the 19th of September, 1868, has been filed by him, according to law and usage, in the office of the recorder of mortgages for the parish of St. Martin.

Wherefore the defendant doth plead the several matters set forth in this answer in support of his title to the said Mossland plantation, and humbly prays the judgment of this honorable court in support of the validity of the same, and that he be quieted in the possession of the property therein conveyed, and that the complainant's bill of complaint be dismissed hence with costs; prays for such other and further relief as may be considered with the facts, and as may be required by the principles of good conscience and equity.

(Signed) H. M. NEBLETT.

(Signed) EDWARD SIMON,
(Do) C. T. BEMISS, *Solicitors.*

45 Sworn to and subscribed before me this 2d day of August, 1871.
(Signed) F. B. VINOT, *Dy. Clk.*

Circuit court of the United States for the district of Louisiana.

JAMES E. MCFARLAND
vs.
HENRY M. NEBLETT. } No. 6440.

Answer of defendant to the several interrogatories propounded at the foot of complainant's bill of complaint, being numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, & 12.

1st. Answer to No. 1. As a creditor of James E. MacFarland for a large amount, I went on the Mossland plantation in the fall of 1868 to preserve the property from waste and depredation, and upon obtaining title in the fall of 1869, took possession as owner, which I still hold to this time. There were between thirty and forty head of cattle, three mules, a few old ploughs, and some little household furniture purchased before the war and still on the place.

2d. Answer to No. 2. I received the title or bill of sale (marked "Exhibit E") between the 11th August and 11th October, 1869. There were no blancks in it when I received it, nor when I first saw it, nor at
46 any time afterwards, nor do I know anything of any insertions being made in it. I had the paper recorded in the same condition in which I received it, and it is now on file in the office of the recorder of mortgages of the parish of St. Martin, State of Louisiana.

3rd. Answer to No. 3. When I received the bill of sale marked "Exhibit E" my name and the consideration were both already inserted.

4th. Answer to No. 4. The bond (exhibit marked "F") was given to me by my father prior to 1868—some time in the year 1867—at his residence in Virginia, in consideration of his natural affection.

5th. Answer to No. 5. I know nothing of the letters set forth as Exhibits A & B, and have never seen the correspondence between the parties thereto.

6th. Answer to No. 6. I do not remember to have seen any correspondence between Sterling Neblett and McFarland in the years 1868 and 1869, and have no copies of any such letters.

7th. Answer to No. 7. The letter set forth as Exhibit C was
47 written by my brother Norman, at my request. It was written from Brickland post-office, Virginia, at the date thereof, and there posted.

8th. Answer to No. 8. I do not know whether my father saw this letter or not. At the time the letter was written I was preparing to come South, and asked my brother Norman to attend to writing it, and know nothing beyond the fact that he told me he had written it.

9th. Answer to No. 9. I never saw the answer set forth as Exhibit D. I had left for the South before the answer could have reached Virginia. The first knowledge I had of it was since it was filed as an exhibit in this suit.

10th. Answer to No. 10. My father was consulted about the surrender of the bond. He advised me to accept the plantation in payment of the bond, and I wrote the word "paid" twice on the bond, once across the face and then at the bottom.

11th. Answer to No. 11. I was not the owner of the bond at the time the credit was given. I became the owner in 1867, and know nothing

beyond the fact that the credit of two hundred and fifty dollars
48 was endorsed on it at that time.

12th. Answer to No. 12. I have not. I don't know what my father has done.

(Signed) H. M. NEBLETT.

Sworn to & subscribed before me this 2d day of August, 1871.

(Signed) F. B. VINOT,
Dy. Clerk.

Entry at rules.—Monday, August 7th, 1871.

JAS. E. MACFARLAND
vs.
HENRY M. NEBLETT. } No. 6440.

The defendant, Hy. M. Neblett, by his solicitors, C. T. Bemiss and Edward Simon, has filed, on the 2d instant, his answer to complainant's bill of complaint.

Replication.—Filed August 28th, 1871.

Circuit court of the United States for the district of Louisiana.

JAMES MACFARLAND
vs.
HENRY M. NEBLETT. } In equity. No.

The replication of James E. Macfarland, complainant, to the
49 the answer of Henry M. Neblett, defendant, to the bill of complaint of the above complainant.

This repliant, saving and reserving to himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto says: That he will aver and prove his said bill to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this repliant. Without this, that any other matter or thing whatsoever in the said answer contained, material or effectual to be replied unto, confessed and avoided, traversed or denied, is true. All which matter and things this repliant is, and will be, ready to aver and prove, as this honorable court shall direct, and humbly prays as in and by said bill he has already prayed.

(Signed) J. A. CAMPBELL AND
(Do.) HUDSON AND FEARN,
Solicitors for Complainant.

50 *Entry at rules—Monday, September 4th*, 1871.

JAMES E. MACFARLAND
vs.
HENRY M. NEBLETT. } No. 6440.

The defendant herein is hereby notified that on the 28th day of August, 1871, the complainant, by his solicitors, John A. Campbell and

Hudson and Fearn, has filed his replication to said defendant's answer.

Consent.—Filed October 6th, 1871.

United States circuit court for the district of Louisiana. In equity.

JAMES E. MACFARLAND } *vs.* } No. 6440.
HENRY M. NEBLETT. }

The parties, plaintiff and defendant, in the above-entitled cause, by their counsel, hereby consent and agree that the time allowed for taking testimony in the said cause shall be enlarged and extended to and including the first day of February, 1872.

(Signed) J. A. CAMPBELL AND
HUDSON & FEARN,
Solicitors for Complainant.

(Signed) C. T. BEMISS,
51 *Solicitor for Defdt.*

Consent.—Filed January 9th, 1872.

United States circuit court for the district of Louisiana. In equity.

JAMES E. MACFARLAND } *vs.* } No. 6440.
HENRY M. NEBLETT. }

The plaintiff and defendant in the above-entitled cause, by their counsel, hereby consent and agree that the time allowed for taking testimony in the said cause shall be still further enlarged and extended to and including the first Monday in March, 1872.

(Signed) J. A. CAMPBELL &
HUDSON & FEARN,
Solicitors for Complainant.

(Signed) C. T. BEMISS,
Solicitor for Defendant.

Consent to issue commission.—Filed January 9th, 1872.

Circuit court of the United States for the district of Louisiana.

JAMES E. MACFARLAND } *vs.* } No. 6440.
HENRY M. NEBLETT. }

The complainant and defendant in the above-entitled cause, by
52 their respective counsel, hereby consent and agree that a commission may issue herein directed to Robert H. Taliaferro, commissioner of the circuit court of the United States for the eastern district of Virginia, or to any other commissioner of the circuit court of the United States for said eastern district of Virginia, to take the testimony of James E. Macfarland, of Richmond, Virginia, and of Mrs.

Caroline Macfarland, of Petersburg, Virginia, witnesses on behalf of the complainant in said cause, under the interrogatories herein propounded by complainant aforesaid, and duly crossed by the said defendant. And all necessity for affidavit and motion is hereby waived, as well as all objection to the form and manner of issuing the said commission.

(Signed) HUDSON & FEARN,
Solicitors for Complainant.

(Signed) C. T. BEMISS,
Solicitor for Defendant.

Commission issued January 19th, 1872.—Returned and filed February 17th, 1872.

Circuit court of the United States for the fifth judicial circuit
53 holding sessions in and for the district of Louisiana.

To Robert H. Taliaferro, commissioner of the United States for the eastern district of Virginia, or any other commissioner for that district:

Know ye that, reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you James E. Macfarland, of Richmond, Virginia, and Mrs. Caroline Macfarland, of Petersburg, Virginia, witnesses, and them duly examine on the annexed interrogatories, on oath, touching and concerning certain matters and things in a case now depending in the said court, wherein James E. Macfarland is plaintiff and Henry M. Neblett defendant; and the same examination, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court, without delay, to be read in evidence on the trial of said cause, and send also this writ:

Witness the honorable Salmon P. Chase, Chief-Justice of the
54 Supreme Court of the United States, at the city of New Orleans, this 19th day of January, anno Domini 1872, and the 96th year of the Independence of the United States of America.

[SEAL.] (Signed) F. A. WOOLFLEY, *Clerk*,
By F. B. VINOT, *Dy. Clerk.*

Interrogatories annexed to commission.

Circuit court of the United States for the district of Louisiana.

JAMES E. MACFARLAND
vs.
HENRY M. NEBLETT. } In equity. No. 6440.

Interrogatories to be administered to James E. Macfarland, of Richmond, in the State of Virginia, a witness to be produced, sworn, and examined under and by virtue of the annexed commission before Robert H. Taliaferro, commissioner of the circuit court of the United States for the eastern district of Virginia, the commissioner therein named in the above-entitled cause on the part of the complainant:

Intg. 1st. Are you the complainant in the suit in the title to these interrogatories named, and are you acquainted with the contents
55 of the bill in this cause? Do you know the defendant in this cause, and how long have you known him?

Int. 2. Do you know William H. Macfarland, Sterling Neblett, Norman Neblett, and James H. M. Neblett, or either, and which of them, and how long have you known them respectively, or such of them as you do know?

Int. 3. Please attach to your answer to this interrogatory the originals of the Exhibits A and B to the bill. Who wrote Exhibit A and who wrote Exhibit B? When was the original of Exhibit A received, and at what place were you then residing, and how long before and after that time did you reside in that place? When did you return to the United States?

Int. 4th. Did you receive from William H. Macfarland any confirmation of the contents of the letter marked "Exhibit A" in the bill, or any letter from him on the subject? If yea, attach the letter to your answer.

Int. 5. Had you received any notice at or before the time when you received the letter marked "Exhibit A" in the bill of any transfer
56 of your bond, set forth as Exhibit F, in the bill to the defendant in this suit? When did you first learn of any transfer or assignment of said bond? Is the original of said bond filed in this suit? How did you first receive notice of any transfer of said bond?

Int. 6th. Was there any other correspondence between yourself and Sterling Neblett, relative to the bond marked "Exhibit F" in the bill, or the deed marked "Exhibit E" in the bill, during the years 1868 and 1869? If yea, please attach such of his letters to this answer as relates to the debt, the bond, or the use of the deed aforesaid. Where were you when these letters were received, and did you make any reply to them? If yea, attach your replies.

Int. 7. Did you have, during the years 1867, 1868, and 1869, before September, 1869, any correspondence with the defendant in this suit, relative to the ownership of the bond marked "Exhibit F," or relative to any notice of the transfer of said bond, or to any claim upon you by him or any correspondence whatsoever?

57 Int. 8th. Will you attach, if you please, to your answer to this interrogatory, the original letter, marked "Exhbit C" in the bill, purporting to be the letter of the defendant, and dated September 29th, 1869? When did you receive it and where? What answer did you make to it, and to whom did you send the answer, and to what post-office? In whose handwriting is that letter marked "Exhibit C" in the bill? Attach your answer to the letter marked "Exhibit C."

Int. 9th. Did you receive any other letter during the years 1867, 1868, and 1869 from the defendant in this suit? If yea, please attach it to your answer.

Int. 10th. What was the post-office in Virginia at which Sterling Neblett and his family received letters, and where did Sterling Neblett reside? Is Brickland a city; if so, of what size?

Int. 11th. Did you ever receive any reply from the defendant in this suit—Henry M. Neblett—or from any one else, to the letter written
58 by you in answer to the letter marked "Exhibit C" in the bill? If yea, attach such reply to your answer and state in whose handwriting the same is.

Int. 12th. What is the age of the defendant in this suit and of his brothers, Norman Neblett and James H. M. Neblett, respectively? What has been their respective occupations and places of residence prior to October, 1869?

Int. 13th. What property had the defendant in this suit—Henry M. Neblett—in his own right in 1869?

Int. 14th. Do you know or can you set forth any other matter of thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matter in question in this cause? If yea, set forth the same fully and at large in your answer.

(Signed) HUDSON & FEARN,
Solicitors for Complainant.

59 Circuit court of the United States for the district of Louisiana.

JAMES E. MACFARLAND
vs.
HENRY M. NEBLETT. } In equity. No. 6440.

Interrogatories to be administered to Mistress Caroline Macfarland, of Petersburg, in the State of Virginia, a witness to be produced, sworn, and examined under and by virtue of the annexed commission, before Robert H. Taliaferro, commissioner of the circuit court of the United States for the eastern district of Virginia, the commissioner therein named, in the above-entitled cause, on the part of the complainant.

Int. 1st. Do you know the parties complainant and defendant in the title to these interrogatories named, or either, and which of them, and how long have you known them, respectively, or such one of them as you do know?

Int. 2nd. Do you know William H. Macfarland, Sterling Neblett,
60 Norman Neblett, and James H. M. Neblett, or either of them, and how long have you known them, respectively?

Int. 3rd. Look at the paper marked "Exhibit F" in the bill of complaint, and say whether you ever had the original bond of which Exhibit F is a copy in your possession. If yea, state when you received the same, from whom, and for what purpose. Was the said bond of the complainant handed to you by any person? If yea, by whom? Or was it sent to you in a letter or otherwise? If yea, state by whom, how, and annex the letter to your answer.

Int. 4th. Did you ever have any correspondence with the defendant, Henry M. Neblett, in this suit, with reference to said bond of the complainant, set forth as Exhibit F in the bill? If yea, annex such letters of the defendant as relate to this bond to your answer.

Int. 5th. Did you have any correspondence with Sterling Neblett with reference to said bond of the complainant, set forth as Exhibit F in the bill? If yea, annex such letters of Sterling Neblett to your
61 answer as relate to said bond.

Int. 6th. Did you ever have any notice of the transfer of said bond of the complainant in this suit, set forth as Exhibit F in the bill, to the defendant Henry M. Neblett? If yea, state when, how, and by whom you were first informed of any such transfer of said bond.

Int. 7th. Have you that bond in your possession now, or have you given it to any one? If you say that you have given it to any one, state to whom you gave it, and when.

Int. 8th. Did you ever have any correspondence with Sterling Neblett with reference to the debt due him by the complainant in this suit? If yea, annex any letters you have in your possession from Sterling Neblett, in relation to the said debt.

Int. 9th. Look at the paper marked "Exhibit E" in the bill of complaint, and state whether you ever had the original thereof in your possession. If yea, state when you had it in your possession, and for

how long, and in what condition it then was. State from whom
62 you received the same, and what you were informed was the purpose with which it was given to you, and what declaration of the object of giving it to you was made. If you have any letters from Sterling Neblett, Henry M. Neblett, the defendant, or William H. Macfarland concerning it, attach such letters to your answer. Answer fully.

Int. 10th. Did you give the deed set forth as Exhibit E in the bill of complainant to any person? If yea, state to whom, when, why, and for what purpose you gave it. Was the defendant in this suit or Sterling Neblett, the person who took the deed from you? Did the person who received the deed give you any receipt for it? If yea, annex the receipt to your answer. State fully all you know about this deed.

Int. 11th. What were you informed was the purpose for which the said deed set forth as Exhibit E in the bill was withdrawn from your possession? State the circumstances of the withdrawal of the said deed from your possession.

63 Int. 12th. Are Sterling Neblett, Henry M. Neblett, Norman Neblett, and James H. M. Neblett related? If yea, how? What are the ages of these three sons of Sterling Neblett? Had either of them any separate estate in 1868? Where did they reside and with whom?

Int. 13th. Have you ever had any correspondence with James H. M. Neblett, with reference to the property known as "Mossland" in controversy in this suit? If yea, annex any of his letters relating thereto, that may be in your possession, to your answer to this interrogatory.

Int. 14th. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matter in question in this cause? If yea, set forth the same fully and at large in your answer.

(Signed) HUDSON & FEARN,
Sols. for Complt.

64 *Cross-interrogatories to Mistress Caroline Macfarland.*

Circuit court of the United States for the district of Louisiana.

JAMES E. MACFARLAND
vs.
HENRY M. NEBLETT. } In equity. No. 6440.

Defendant, herein reserving to himself all legal exceptions to form and matter of the interrogatories administered to Mistress Caroline Macfarland, of Petersburg, Virginia, witness on the part of complainant, except such as may hereinafter be expressly waived, to aforesaid witness, cross-interrogatories propounds as follows, to wit:

1st cross-interrogatory. What is you full name, residence, avocation or calling, and condition of life, whether married, single, or a widow?

2d cross-interrogatory. What relation or connection, if any, subsists between you and plaintiff herein.

3rd cross-interrogatory. Is complainant herein indebted to you
65 in any manner or form? Are you in any manner interested in the result of above-entitled case? Have you at any time within the last five years loaned, given, or advanced money, credit, or property of any kind to complainants? If yea, state what it was, when and how much, whether the same has been returned or repaid, and if so, in what manner and at what time, or is still due.

4th cross-interrogatory. Is there or is there not any agreement, understanding, or promise, written, verbal, or tacit, by which you would benefit by the decision of this suit favorably to complainant.

(Signed) C. T. REMISS,
Sol. for Defendant.

Answers to interrogatories.

Circuit court of the United States for the district of Louisiana.

JAS. E. MACFARLAND
vs.
HENRY M. NEBLETTE. } In equity. No. 6440.

The deposition of James E. Macfarland, duly taken before me,
66 R. H. Taliaferro, a commissioner duly appointed under the laws of the United States to take affidavits and depositions, pursuant to a commission hereunto annexed, on the 9th day of February, 1872, between the hours of 6 a. m. and 6 p. m., at the residence of Caroline Macfarland, in the city of Petersburg, to be read in evidence in behalf of plaintiff in certain suit in equity depending in the circuit court of the United States for the fifth judicial circuit, holding sessions in and for the district of Louisiana, wherein James E. Macfarland is plaintiff and Henry M. Neblett is defendant; the interrogatories propounded to the said witness in the same inclosed, with the commission aforementioned, to me as commissioner aforesaid.

JAMES E. MACFARLAND, the witness aforesaid, being carefully examined, and cautioned and duly sworn to testify the truth, the whole truth, and nothing but the truth, deposeth and sayeth as follows, in answer to the several interrogatories-in-chief:

To first interrogatory-in-chief he says:

67 Answer 1st. I am the complainant in this suit, and am acquainted with the contents of the bill filed in this cause; I have known the defendant, Henry M. Neblett, from his birth.

To second interrogatory he says:

Answer 2d. I have also known Wm. H. McFarland, Sterling Neblett, Norman Neblett, and James H. M. Neblett, each and all of them from my earliest recollection; Wm. H. Macfarland died on the 10th of January, 1872.

To third interrogatory he says:

Answer 3rd. I hereunto annex the original of Sterling Neblett's letter to me marked "Exhibit A" in the bill, and the original draft of Exhibit B, a copy of which, made from said draft., was sent to Sterling Neblett, and I suppose the same to be still among his effects. I received the letter marked "Exhibit A" on or about the 9th September, in London, where I had been residing since early in 1862. I continued my residence there until about the close of the year 1870, returning to the United
68 States January 1st, 1871. In the interval I made a visit to the United States, of *a* four months in the year 1867. Exhibit F in the bill I declare to be a correct copy of my bond to Sterling Neblett, executed January 21st, 1861.

To fourth interrogatory he says:

Answer 4th. I have never received any letter or communication from Wm. H. Macfarland, relative to the proposition made to me by Stephen Neblett in his letter, (marked "Exhibit A,") nor have I ever had from him

any confirmation of its contents. I now believe that the letter marked "Exhibit A" was written without his knowledge or concurrence.

To fifth interrogatory he says:

Answer 5th. I had not received any notice of a transfer of my bond set forth as Exhibit F, prior to the execution of the deed marked "Exhibit E" in the bill, nor have I any knowledge of such transfer to the defendant in this suit, or to any other person whatever. The first intimation or notice I ever had of such transfer was contained in the letter of Sterling Neblett to me, dated Febr'y 22d, 1869, appended
69 to the succeeding interrogatory.

To sixth interrogatory he says:

Answer 6th. During the year 1869 I received various letters from Sterling Neblett relative to the bond, marked "Exhibit F," and the deed, Exhibit E, in the bill, dated respectively Febr'y 22d, 1869; March 17th, 1869; April 3rd, 1869, and April 24th, 1869, received by me in the order of their several dates. These letters I herewith annex, together with two other letters from Sterling Neblett to me without dates themselves, but received during the intervals between the two first-mentioned dates. It would appear from their tenor that the latter were written within a very few days subsequent to the despatch of his letter of February 22d, 1869. I was in London at the time of the receipt of each and all of the above-mentioned communications, but did not reply to either of them, for the reason that the failure of Sterling Neblett to comply with the terms of the proposition embraced in his letter to me marked "Exhibit A," and the absence of any confirmation on the part of Wm. H. Mac-
70 farland of the statements therein contained, had caused me to suspect that my confidence had been grossly abused by Sterling Neblett, and that he was acting in bad faith both towards Wm. H. McFarland and myself.

To seventh interrogatory he says:

Answer 7th. I have had no correspondence with the defendant in this suit during the year 1867, 1868, or 1869 prior to September, 1869, relative to the ownership of the bond marked "Exhibit F," or any transfer of said bond to himself or any claim of the defendant against me, nor induced any correspondence with him whatever.

To eighth interrogatory he says:

Answer 8th. I received the original of letter dated September 20th, 1869, marked "Exhibit C," in this bill and hereunto attached, while in London, on or about October 22d, 1869, and replied to it in the letter of that date marked "Exhibit D" in this bill, a copy of which, taken at that time, I also attach to my answer to this interrogatory. I sent
71 the original of this letter to the defendant, Henry M. Neblett, at "Brickland, Va.," where I supposed he was then residing.

To the ninth interrogatory he says:

Answer 9th. I have received no letter or letters other than the above-mentioned from the defendant in this suit during the years 1867, 1868, & 1869.

To tenth interrogatory he says:

Answer 10th. "Brickland, Virginia," is the name of the post-office at which Sterling Neblett received his letters, and where he and his family resided. It is not a city, but a private country residence from which letters were delivered to the immediate neighborhood.

To eleventh interrogatory he says:

Answer 11th. I received no reply from Henry M. Neblett, the defendant in this suit, to my letter of October 22d, 1869, marked "Exhibit D" in

this bill. The letter which I hereunto annex dated Nov. 24th, 1869, and
in the handwriting of Sterling Neblett, was received by me in Lon-
72 don in December, 1869. He therein states that my letter marked
"Exhibit D" was shown to him by my aunt, the mother of the de-
fendant in this cause.

To twelfth interrogatory he says:

Answer 12th. The age of the defendant in this suit is about 34 or 35, that of his brother Norman Neblett about 32. J. H. M. Neblett died in 1870 at the age of about 42. Sterling Neblett died also in Nov., 1871. Prior to the year 1869, J. H. M. Neblett resided on his plantation in Brunswick Co., in this State, and was a planter. Norman Neblett resided at Brickland, as well as the *the* defendant, principally, although I believe the latter cultivated for a short time, prior to 1869, a rented place in the vicinity of his brother James.

To thirteenth interrogatory he says:

Answer 13th. I have no knowledge whatever of any property owned by the defendant, Henry M. Neblett, in his own right prior to 1869.

To fourteenth interrogatory he says:

Answer 14. In answer to this interrogatory I have only to say in
73 addition to what is already set forth in my bill of complaint against
defendant, that during my absence abroad, both prior and subse-
quent to 1867, my uncle, William H. Macfarland, as jointly interested with me in it, had the entire control and management of the property known as "Mossland," and referred to in this bill; that at the time of my return to the United States, in 1867, affairs in the South were in such a disturbed condition as to preclude any satisfactory settlement of their existing claims against it; that as facilitating such settlement upon a basis alike just and equitable to myself and others, I gave my consent to the proposed sale of the property by Sterling Neblett or his son, Henry M. Neblett, in the terms and under the conditions set forth in his letter to me of August 21st, 1868, and marked "Exhibit A" in this bill, presupposing the assent of Wm. H. Macfarland to such sale; and that, reposing entire confidence in the good faith of Sterling Neblett, and the truth of the statements contained in the above-mentioned letter, and
regarding a sale in the form and manner proposed by Sterling
74 Neblett in this letter as the best and most convenient mode of
disposing of the property in my absence from the country. I executed the deed of transfer marked "Exhibit E" in the bill, which, as being perverted from its original intent, I now pray their honors will order to be cancelled and annulled.

And further said witness sayeth not.

(Signed) J. E. MACFARLAND.

The letter referred to in the foregoing answer to 3rd interrogatory is transcribed as Exhibit A on page 5.

The letter referred in same interrogatory is transcribed on page 22 as Exhibit B.

Letter.

BRICKLAND P. O., VA., *February 22d*, 1869.

MR. JAMES E. MACFARLAND,
11 *King's Bench Walk, Temple, London:*

MY DEAR SIR: I have have been confined, by typhus fever, to my house since 13th Novr., '68, 75 days in bed, now walking about, but extremely feeble.

Your deed to Henry, who was and is the real owner of your bond, was deposited with your uncle William to hold in trust, Henry having
75 declined to receive it then, because he had got information that Mendoza had gotten a judgment for about $3,600, which bound the land and made your deed to him invalid as to that, and secondly, your uncle E. P. Scott had endorsed on the 2 bonds assigned to Broussard, that they had never been paid, in amount near $12,000, and again Broussard had bargained and contracted to sell his bond to another party.

Now, sir, understand, if Henry accepted your deed and delivered you up his bond, that act would settle that debt and extinguish his trust deed or mortgage in La. Then Broussard's debt would oppose him, and Mendoza' debt or judgment being unrestrained by Henry's mortgage, which was before his lien, he would sell the personal property, and the land possibly. Mendoza had fixed a day for sale, &c., &c., & he was also advised your deed destroyed his debt if he accepted it. He went promptly to Mossland, Mendoza postponed his sale, finding Henry
76 had possession of the property & a trust deed that debarred him from having a sale—he, Henry, remaining there in possession by authority of his trust deed, believing you will approve his acts, as you said by letter you owed Mendoza not a dollar, and to save your personality. You are the only person in law who can object or oppose Henry's take' possession and taking care of the property.

Mendoza had possession, had kept it all the war, since '62, & on the day Henry arrived there he turned out 40 hogsheads of sugar & molasses for a neighbor on toll, without insurance. Henry found affairs in a bad condition. (See another letter to you.) Your uncle William having abandoned the place in 1862, after he received $14,000 for the sugar and molasses made on it, remained in Mendoza's hands, who charged about $3,600 for residing on & " preserving the property & place," & got his judgment therefor, no one to oppose him. Henry was quickly dunned by the tax collector for the four years' taxes, and I suppose will have it to pay, as taxes have preference over every other, claim, & bind
77 the land therefor. He has enquired into matters, & he was informed suits had been ordered for the Broussard debts. Again he was informed there was a suit vs. you, for a large debt, as the lawyer said; so you see it was prudent to let your uncle hold your deed & see if it had any vitality—found out difficulties before its, your deed, arrival.

To aid Henry here with Mr. Macfarland, who said he would oppose Henry, I made 2 special visits to see him. He said his proposition was to become joint owners with Henry's bond vs. you, the 2 to buy Broussard's debt, close that & Henry's deed, hold the place, & sell it. Mark now—for cash; then it could not be sold for $10 in cash per acre. I said, well, sir, you advance money to pay Henry's expenses. The property would be cultivated at heavy expenses, & you must pay ½ until it could be sold—perhaps several years He declined to advance one dollar. I proposed to him to let his son (either) take possession of the place,
78 cultivate it, &c., &c. Henry was willing to divide his debt with him or let him in on ½ free, but he must pay ½ expenses & ½ of the debts to others. So the matter ended, & Henry went off, & is now there with great doubts whether he will be able to do or save anything. He asks me for advice, & I am at a loss to do so. If he buys the place he must settle on it. Expenses too heavy for his means or cash. I know Henry would let you have his debt at 50 cents on the dollar. Rumor says your uncle was involved with the large mill of Warwick & Barks-

dale that has lately stop'ed—deficient $800,000. If this be true, which I doubt, (too big,) he had a good excuse for not going in with Henry.

With kindest regards,

(Signed) STERLING NEBLETT.

(Written across the face:) Annexed to plaintiff's answer to interrogatory 5th.

(Signed) R. H. TALIAFERRO,
U. S. Commissioner, &c.

$14,464.51.

Know all men, that on or about the twenty-first day of January, eighteen hundred and sixty-one, I did, in the county of Bolivar, State of Mississippi, execute a bond or note for the sum of fourteen thousand four hundred and sixty-four dollars and fifty-one cents, it being
79 for value received in money, payable first January, eighteen hundred and sixty-three, with ten per centum interest thereon after maturity, that being legal in Mississippi, to Sterling Neblett. To secure the said note, I executed a deed of trust, & had it recorded in the county & State aforesaid, on the twenty-first day of January, eighteen hundred and sixty-one, & I took the deed & had it recorded in the parish of St. Martin, Louisiana, on my property covered by the deed, & where I resided. Now, I have never paid one dollar to credit of said note described above, & I do by these presents promise to pay said note in full to the said Sterling Neblett, or to his assignee & the holder of the note aforesaid. Signed this first day of January, eighteen hundred and sixty-seven.

(Endorsed:) Bond enclosed for J. E. M.'s signature in letter of 22d Feb'y, '69.

(Endorsed:) Annexed to plaintiff's answer to interrogatory 6th.

(Signed) R. H. TALIAFERRO,
U. S. Commissioner, &c.

80 *Letter.*

Mr. MACFARLAND, *London:*

MY DEAR SIR: I have received a letter from Henry, enclosing suggestions from his lawyers, Simons & Voorhees, to send you a memorandum or form for you to sign, which keeps your note alive, as Dr. Scott did on the bond held by Broussard against you. You understand it. It is simply to prevent it. Your note being proscribed by the statute of limitations, & they say you date it first day of January, 1867, when you last saw me, to which there can be no objection. They say your letters to me prove you have not paid the note, but it may be as well to follow the example of Broussard, given by Dr. Scott on his 2 bonds. Please sign the enclosed, or draw one in your own handwriting, & mail it immediately to me, & make any remarks you may choose to make also on Henry's notes; say you consent that Henry's mortgage may be foreclosed.

As your uncle William understands foreign exchange, I requested him to pay on the £4 the cost of the deed in his hands, & hope
81 he did so; but if he did not—as he often neglects to do—you give your mother an order on me for that amount, & I will pay it to

her promptly. He now has 2 of my letters asking him to make his proposition in writing, fearing I may have misunderstood him; that Henry says the debts approached 17 or $18,000 is too large for him to pay others & cultivate & live on the place. With a partner to aid in paying & cropping he might go on. He is at loss what to do. William has not answered either of these letters, & it may be that he acts wisely in declining to assume any obligation to raise money for unproductive property, specially at this time, & I shall drop the subject with him unless he answers.

Your aunt Nannie & Victoria desire to be kindly remembered to you & best wishes for your health as I do most truly.

(Signed) STERLING NEBLETT,
Brickland P. O., Lunenburg, Virginia.

I suppose your uncle William will have to pay as surety for Dr. Scott over $7,000. Henry says your E. T. Scott has settled the By-
82 foremore place, being near Mossland, & is going to make sugar.

We are in a horrid condition in Va.; the negroes have a lien on what is made—first to pay them as hirelings, which leave but little for white, the owners of the land. There is great suffering & poverty among the blacks, who does not know how to take care, or work unless made, driven, which we are obliged to do. They are fast*ing* die*ing* out, which pleases the radicals, who want to move here & get our lands, but are opposed to being with & governed by negroes; great poverty & suffering with whites and blacks; as soon as I am able to travel I shall again go to Richmond.

STERLING NEBLETT.

(Endorsed:) Accompanying letter of Febr'y 22d, 1869.

(Endorsed:) Annexed to plaintiff's answer to interrogatory 6th.
(Signed) R. H. TALIAFERRO,
U. S. Commissioner District of Virginia.

Letter.

Mr. JAMES E. MACFARLAND,
11 *King's Bench Walk, Temple, London.*

83 MY DEAR SIR: I mailed two letters to you 24th Feb'y, '69, since which I have received a letter from Henry, enclosing a copy of your bond, which I herein enclose to you, & which he requests you to sign & return, or it may be best like business for you to copy & sign it & mail to me, charging expenses in your draft by your mother, which I will pay for Henry. He anticipates a suit and active contest with 3 parties, & his counsel advising him to get you to sign a copy of the paper, to acknowledge & declare you have never paid the bond & you promise to pay it, which is simply a renewal or perpetuation of your old bond—no more; he is then prepared to contest matters with Broussard, who got Dr. Scott as your joint obligor to renew his 2 bonds. Henry desires to foreclose over; Mendoza will be a contestant, as his judgment, based on the care & preservation of the place, may give him a preference over all other claims on the property. If there are any articles of house furniture that you desire to preserve for yourself or your mother,
84 name them, & Henry will comply with your request. If you think it best to have witnesses, or it may be best to acknowledge it before a notary public—the lawyers did not suggest or advise any

more than your signature; perhaps it may be safest & best to sign both forms in my letter of 24th February & the one herein enclosed, & Henry's counsel can decide which to use, if necessary; he wants to guard every point, if necessary.

With best wishes, truly, yours,

(Signed) STERLING NEBLETT,
Brickland P. O., Lunenburg, Virginia.

As he can do it & may have to go into the Federal court, leave the case in the hands of his lawyers, & return to Va. to spend the summer as soon as you return your renewal or perpetuation of your bond. I suppose your endorsation on the back or below will do on the copy, thus: "This is a true copy of the original bond which I executed to pay the sum of $14,464.51 on the first day of January, 1863, & gave a trust-deed to secure it, duly recorded; now I do by these present per-
85 petuate & renew & promise to pay said bond to the original obligee or his assignee.

HENRY M. NEBLETT.

Signed this first day of January, eighteen hundred and sixty-seven.
(Signed) JAMES E. MACFARLAND.

(Endorsed:) Sterling Neblett, (without date.)
(Endorsed:) Annexed to plaintiff's answer to interrogatory sixth.
(Signed) R. H. TALIAFERRO,
U. S. Commissioner, &c.

Letter.

Mr. JAMES E. MACFARLAND:

MY DEAR SIR: I mailed 2 letters to you about 25 ultimo, & I trust you will receive them, understand them, & comply with request or object of them. The laws of Louisiana proscribe a bond after so many years, which makes it necessary & usual for an obligor to renew, to perpetuate his bond before it does expire; & o'ligors do it whenever requested. It adds no addition' responsibility on him, & it is morally & legally right to have it done as Henry's lawyer advises it to be done. You renewed your uncle's debt on leaving Va., & Henry request' you to do the same for him. Dr. Scott renewed in 1865 Mr. Brous-
86 sard's bonds. Put Henry on the same footing of your other creditors. He expects you to do it promptly, for the use of his lawyer, to contend with Broussard & Mendoza; and the suit may be in court & hang on many years, it is necessary to keep his bond alive.

My dear James, think of the past. My only motive was to help you. I loaned you more money than I ever gave or loaned either of my sons at one time. I was getting ten per cent. interest from persons, & reserved the right of drawing for it at notice; to draw it from them & loan to you, lock it up for years, & now never get but a small portion. Very doubtfull whether he ever gets one dollar, if Broussard & Mendoza beats him at law. The tract of land will not now pay them, as there are no buyers. Mendoza keeps his judgement alive & occupies some of the buildings and land. Henry is in great trouble & perplexity, at heavy cost, (near $2,000,) since he got there—middle Nov., 1868. He is hesitating on the wisdom or propriety of spending cash for doubtfull property.

87 Your aunt urges him to abandon the country & settle in Va.

I know not the best, & he is reflecting, hesitating what to do; his lawyers advise him to contend & hold on. All unite with me in the kindest regards & best wishes.

Yours, truly,

(Signed) STERLING NEBLETT,
Brickland P. O., Lunenburg, Virginia.

I have but a short time to do bus., days of four months confined; hence, to be plain, to be understood, I expected your uncle to write to you, explain everything, & which I hope he did last fall; but, full of business, he may have omitted to do so, & I now repeat, before your deed to Henry arrived, he heard Broussard had sold his bonds to another, and we might not be able to buy them, which was true & remains true. T. N. Broussard, manager, became responsible as endorser. Again, next to Broussard' vendor's lien stands your trust-deed to me, assigned to Henry, and if Henry accepted your last deed of your right to him—delivered your bond to you—then Henry's deed would be
88 settled, out of the way of Mendoza & other subsequent creditors. For, Henry, I said to your uncle, there are difficulties to understand & to be removed. You hold James Edward's deed now of no value, as escrow, if *me* discover it may do good instead of harm; Henry may receive it & put it on record; it would have been folly , unless it was to do good. As to your not with you, he looks to the only; renew, perpetuate your bond; sign the one enclosed last month, & I trust you will not be called upon again by Henry, I want you to understand. Henry proposed to your uncle to write—each half, each pay ½ expenses; ½ to satisfy liens or judgments to obtain a good title; to advance ½ to Henry; half to go out & manage the property, to cultivate it; 5,000 or 10,000 would be necessary; each advance ½. He declined that proposition, & thus the matter ended between them. The place could not be sold now. Henry wanted money to aid him to hold & make sugar until, if ever, the place could be sold. William
89 said he would advance no money. Henry said, if his uncle would not join him & advance money, he could not take him as a moneyless partner; he, Henry, wanted *h*elf money.

Truly,

(Signed) STER. NEBLETT.

(Written across the face:) Annexed to plaintiff's answer to interrogatory 6th.

(Signed) R. H. TALIAFERRO,
U. S. Commissioner, &c.

Letter.

Mr. JAMES E. MACFARLAND:

MY DEAR SIR: Since writing 3 letters to you, I have referred to your address, & I found I left out to care of "John G. Witt, esq'r," and if you will examine, they are directed right except that omission. Hunt them up, & sign, perpetuate your bond promptly, as Henry's lawyer wants to be prepared for all p'ints. He (Henry) asks this just and legal act, not increasing your bond, only keeping it alive & calculated to bring matters to a close, place him on same footing with others; but for Mendoza's judgment, Henry would have accepted & had recorded your quit title-deed, put in hands of Mr. Macfarland as an escrow, to wit: matters, investigations, &c., Henry's trust-deed, the only bar to Men-

doza's judgement. I think you clearly understand matters, and will promptly aid in closing them up.

Very truly,

90 (Signed) STERLING NEBLETT,

BRICKLAND P. O., LUNENBURG, VA., *March 17th*, 1869.

(Endorsed:) Annexed to plaintiff's answer to interrogatory 6th.

(Signed) R. H. TALIAFERRO,

U. S. Commissioner.

Mr. JAS. E. MACFARLAND:

MY DEAR SIR: I wrote two letters to you & mailed them here 21st Feb'ry, '69, now 38 days. I observe by my correspondence to London that it generally consumes 16 to 18 days in the passage, & as I have not received your replies, I fear you have not received them, and as I am still unable to ride out, & as Henry & his counsel are anxious to receive your renewal, or your acknowledgement that it your bond, you owe, & still bind yourself to pay it, as per copy I enclosed to you, date it the last day you saw me. If you received those letters, as I hope you did, I feel confident you did not hesitate a moment to sign & mail to me for Henry & his counsel. It does not add to your obligation; it only

91 keeps your debt alive & enables Henry to cope with Broussard & Mendoza, & you have done it or will sign promptly as Dr. Scott in '65 renewed Broussard's bond, given by you & E. P. Scott, copies of which are before me. Again, you in July, '67, renewed, or gave your obligation to Mr. Wm. H. Macfarland. Now, sir, Henry, or I for him, ask nothing but justice or fairness in placing us with the rest equally; we ask nothing but what is morally & legally right, & I feel confident you will do right; sign & mail immediately, mark, think, & understand us. Your deed to Henry is held by your uncle William as an escrow until Henry's counsel advices to receive. If the deed had been accepted on its arrival & recorded then, & your bond delivered up to your order, the bar to Mendoza judgment being removed, he then would have enforced his judgment forthwith, and sold out everything subject to Broussard's vendor's lien; he & Broussards would have united & swept everything. Mark, your deed to Henry was junior to theirs, & was of no value, no vitality then, a fact we discovered after you en-

92 closed the deed to us. Now, sir, I expect & require you to understand us; you know us; we make it a matter of conscience to do justice, & expect legal accuracy & legal forms to be shown to us. Now, sir, Henry is contending there to protect your property & get something for his debt—not let all go. Mark, now, Mendoza occupies a pa't of the place; says you & Mr. William H. owes him four thousand dollars, & he is going to get the money, or personal property, &c. You know Loa. laws & juries' favor.

Henry is there & holds possession, too, & Broussard urges law—results doubtful. Henry's counsel looks to his trust-deed if best, & to your deed of sale to him if of life & of value, to form a compromise sooner or later. He is anxious to leave before heat of summer, & will do so on the reception of your renewal bond & your deed to him (as one only can be used) to submit to his counsel, & he may effect a compromise.

I suppose your uncle transmitted to you the £4 sterling for execution of the deed, as you have not advised me of his delay to do so. If he has not paid you, sir, look at my Feb'ry letters; advise me, & I

93 will send hastily to Branel, who I am told will give good bills.

Write with me, sir, & aid to close up old matters. Since your uncle William sees the difficulties & heaviness of liabilities he declines to write with Henry & raise money to buy out opposition, & seems to have abandoned Mossland as he did in Dec., '62, got 12 or $14,000 for sugar & molasses, left the place in Mendoza's hands, who managed it as his own; 4 years' taxes due. On Henry's arrival there, 23 Nov., '68, Mendoza running engine turned out one man's crop of 40 hogsheads of sugar & molasses that day, & bargained to grind 3 or 4 crops on toll &, alas! no insurance.

If you sustain Henry, advise him to keep possession, renew your bond, deliver deed, &c.; he may succeed to some extent. Please answer promptly & accept my best wishes.

Most truly,

S. N.

"Let there be peace." Any suggestion you may make to Henry, I will forward to him, mail time 7 or 9 days.

Very truly,

(Signed) STERLING NEBLETT.

BRICKLAND P. O., LUNENBURG, VA., *April 3d*, 1869.

94 Observe Henry is an assignee from me, the original payee.

(Written across the face:) Annexed to plaintiff's answer to interrogatory 6th.

(Signed) R. H. TALIAFERRO,
U. S. Commissioner, &c.

(A copy.)

$14,464.51.

On or before the 21st day of January, eighteen hundred and sixty-three, (1863,) I bind myself and heirs to pay to the order of Sterling Neblett fourteen thousand four hundred & sixty-four dollars & fifty-one cents, with an interest of ten p. c. thereon after maturity to final payment.

Signed & sealed this twenty-first day of January, eighteen hundred & sixty-one, at Bolivar, Mississippi.

(Signed) JAMES E. MACFARLAND. [SEAL.]

The above is a true copy of the original bond, which I have never paid, but desire to do so, & bind myself and heirs to pay off the original bond as above.

Signed this second day of January, 1867.

(Signed) J. E. MACF'D.

Draw a good one for you to sign & mail.

Very truly,

STERLING NEBLETT.

BRICKLAND P. O., LUNENBURG 'ITY, VIRGINIA,
U. STATES AMERICA, *April 24th*, 1869.

Letter.

MR. JAMES EDW. MACFARLAND, 11 *King's Bench Walk, Temple, London:*

DEAR SIR: 24 Feb'y, '69, 2 mo. from to-day, (diary,) I mailed 2 letters to you & 4 since, and, do not misunderstand me, to pre-

95 vent a family contest. Henry, now the true & legal assignee of your bond, keep it alive for future adjudication, until the courts shall sit in St. Martin, La. He has the right to request that you renew his bond; indeed, sir, he demands it as justice to him. E. P. Scott renewed your & his 2 bond to Broussard. You renewed, executed, a new bond to your uncle, 3 July, '67, (for your sake I regret you did it,) & yet 27th July, '67, he writes to me, enclosing me a copy of your certificate, flatly destroying the its main point, & on 22d April, '67, your letter to me, but hereafter if necessary. Now, sir, renew this bond & keep off law and an unpleasant attachment, publications, to you, filing letters, &c., &c.

"Preserve peace in the family." Why, sir, when your father was burnt out in Lunenburg every obligor renewed his bond. The great Judge Yerger, of Mississippi, renewed his prescribed bond to Norman, greatly above your amount. Judge Burrus, (Boliver,) Miss Cook, (Bolivar,) for a much larger amount than your renewal his & her bond. Put Henry on like footing with Broussard, your uncle, &

96 Mendoza; the last will sweep home furniture, mules, cattle, &c., &c., after 21st Jan'y, seventy, if you do not renew Henry's bond to preserve his present position. I have written thus much, but if you got my other letters refer to them again, & I ask you most respectfully to sign & mail or say you will not sign renew. (It is right & just to sign, to comply also to your interest to do it.) Two weeks ago I received a letter from your uncle, informing me he had just received a letter thus: "Mr. James E. Macfarland, care of William H. Macfarland, Richmond, Va.," from which he inferred you would be in Richmond next steam., &c. He had no conceμption of the writer of the letters. He wanted me to come to Richmond to see you, &c. I replied: "If Jas. E. arrives advise me, & I will go promptly; but, sir, look if the letter was mailed in La., perhaps on business, & as you always claimed Richmond, Va., as your home, he (the writer) addressed you there."

Now, sir, this mail brought me a letter from Henry. H. will return to Va. during May. Only about 30 sugar-houses & planters planted cane this year in St. Martins. Dr. Berry Wilkins nor E. P. Scott gr.

97 not a hill cane; planted cotton. Did you get my letters? Henry is willing to let you have his bond for a few cents on the dollar. I got a letter last mail from your mother; she & circle very well. Dr. Osb. willed a fine estate to the Osborne children at the death of his widow. Nat, clerk for Gen'l Mahone, lives at Lynchburg, Va.

(Written across the face:) Annexed to plaintiff's answer to interrogatory 6th.

(Signed) R. H. TALIAFERRO,
U. S. Commissioner.

Letter.

Mr. JAMES E. MACFARLAND.

DEAR SIR: As you desired your house furniture should be preserved from Mendoza's judgment, your deed lay in the hands of our uncle, as an escrow*l*, how I have received it, & by your request have delivered to your mother your bond, the consideration of your sale of Mossland to me.

The heavy claim of Broussard, about $12,000 now, and the Mendoza judgment, about $4,000 now, vs. Mossland, seems to have decided Uncle William not to unite with me & furnish ½ funds to make sugar until we could sell. At this time no sale, & with me I have hesitated

whether to abandon the place or struggle to save something by borrowing large sum, & risk of forced culture, in latitude 30° ¼.

The trust-deed of Bolivar kept Mendoza off; that being satisfied by endorsing on face of your bond "Paid." He may sell furni-
98 ture, stock, & whatever he can. I shall go to Mossland, delapidated as it is, repair as I can, & abide consequences; make sugar if I can; sell my title when I can. Universal ruin & suffering at the South, as great as the crusade in Palestine. Mother & father, and all our circle, desire to be kindly remembered to you, with best wishes for your health & happiness.

Yours, truly,

HENRY M. NEBLETT,

Brickland P. O., Lunenburg, Va., Sept. 29th, 1869.

Rotchford, Brown & Co. have just sent a claim to Va. against J. E. Macfarland & Co. for over $2,000; for what purpose I know not; to collect, I suppose.

(Endorsed:) Annexed to plaintiff's answer to interrogatory 8th.
(Signed) R. H. TALIAFERRO,
U. S. Commissioner, &c.

The letter annexed to plaintiff's answer to interrogatory 8th is transscribed as Exhibit D, on page 26 of this transcript.

99 *Letter.*

Mr. JAMES E. MACFARLAND, Esq'r.

DEAR SIR: Henry is in Loua., & your letter to him was shown to me by your aunt; deeply sympathizes with you. I shall not reply to your letter, unpleasant to me, & clearly shown you do not understand the "complications of this case," and I am physically unable to become your teacher by history or argument. In or about '58 I loaned you $9,000 to make, as you said, the 1st payment. On 21st January, '61, you obtained from me a loan to pay the vendor's lien, (Broussard, ass'ge',) in fact the only incumbrance on the real estate, (land.) See your deed, & see your letter 22d April, 1867. Pass over here to June, '68. I said to Mr. Macfarland, "I propose a compromise; you and Henry unite, buy the vendor's lien, (his 2 bonds,) and Mendoza's judgment; then sell Mossland, &, if a profit, divide that profit between you 2, but if you cannot sell it, repair & cultivate the place on joint acct." He replied, "I shall be pleased with such a' arrangement, & will advise Jas. Edward to make a deed of sale of the place to Henry," &c.
100 Now, sir, in Aug. '68, he went to the mountains, & gave no attention to this matter his letters; then, in August, I wrote to you. On receiving your deed I enclosed it to him, (by mail,) Henry being absent, to hold. In the fall of '68 I said to him, "Henry is willing & is ready to go to the Teche; you & him raise the money to pay the vendor's lien & the judgement; sell the place;" and he replied, "I have not got the money, & cannot go into that arrangement." The deed was left in his hands, hoping he would raise the money & enter into that proposition. I wrote to him often, several times, will you put the of money & enter carry out the securing the title & making the sale. On the 11th Aug., '69, I asked Mr. McF., "You have taken months to consider, will you write, buy title, &c. He said, "I have no money, & de-

cline doing anything in the case." He then delivered up the deed to me to send to Henry, who, with it, will be governed by his counsel.

Now, sir, what else could Henry do? No backing out in him. His poverty prevented him from paying Broussard's & Mendoza's liens. Broussard's, about $6,500, (by memory,) 8 & 6 interest from 1st Jany., '61; say over $11,000. Mendoza's judgement $3,500 to $4,000; interest thereon, suppose total 10 to 18,000 $. Henry would have forfeited his claim; he could not raise that amt. What then was he to do. I would not give $18,000 for the 1,200 acres of land. Sugar is a forced culture in St. Martin. On 28 Oct., '62, the frost ruined the crop of cane. 33 years has convinced me sugar in U. S. is forced culture, lottery, gambling. I never did go into it. Now, sir, review, think what else could Henry have done; he was anxious to get his uncle to *write* with him, & will now be governed by his counsel. In his bad health (cough) & poverty his two brother', Wm. & Sterling, advised him to give up, abandon the property as unvaluable. He could not get a bid for the place last winter.

Your uncle went to the (Teche) in December, '62, & Mendoza writes
"he sold the sugar and molasses for over $12,000. What did
102 he do with that? Mendoza says Broussard would have received
the money or sugar in pay for his 2 bonds." Now, sir, the 4th & 5th pages of your letters are unintelligible, but if you mean then to impugn my letters to get you to renew your bonds, it is unpleasant to me. Henry's counsel said "your bond is proscribed by limitations, so was Broussard, 5 years. E. P. Scott renewed Broussard's 2 bonds. Jas. E. Macfarland surely renewed his bond to your father's, & date last day they saw each other, & your father can assign it to you," &c. Well, sir, I submitted this question of renewal to your uncle, who said, "All right; there is no objection to his renewing the bond, but there is no advantage of a renewal; he acknowledges the bond has never been paid, & his petition to the judge to appoint a trustee in Bolivar to close the trust-deed & pay that bond is a renewal fully." Such was always my opinion, & I regret my folly (foll'ing his lawyer's advice) in giving you the occasion to be uncourteous to one who did not believe the Spanish proverb, "To your friend money lend; you will loose money & friend." "Thank you for that word, "Fiat justitia ruat cœlum." It
is all Henry wants.

103 I said it was to your interest to calm, to harmonize with your creditors. Henry said, "I know where I have I can save legally $500, & transmit it to Jas. Edward."

Now, sir, think—the property impaired. Wm. H. M. abandoned it in Dec'b'r, '62; left it in possession of Mendoza, a Spaniard, who, under the Spanish flag, caused General Yankee to deliver it up to him, who has cultivated it '63, '64, '65, '66, '67, '68, & '69.

Henry has paid the taxes, & saved the property, &c.

Again, in this I said, "Mr. MaF. give Henry $3,000 for—months—last week—possession & his rights—take his position." "No, sir. I have no money; cannot buy." And thus matters stand. Now, sir, what would you advise to be done?

Now, sir, controversy seldom pay' debts, & seldom whitewashes the obligors. Henry wants to avoid controversy, but has begged your uncle William to refer, arbitrate, or to bring a friendly suit in St. Martins, or he will acknowledge the service of a suit in Richmond, & there decide title matters. He declines to do that. I know his object—to force
Henry to buy his claim. This is a mistake & error in him. Bad
104 policy defeats morally his getting a dollar. Now, sir, mark, I

sincerely wish his claim was worth $13,000. But, alas, lawyers here say it is not worth anything—too far behind. I hope I shall not have to trouble you again. Your good mother was very well last week.

Auld lang *signe*.

Vale, vale, longum vale.

(Signed) STERLING NEBLETT.

NOV. 24TH, 1869.

(Endorsed:) Annexed to plaintiff's answer to interrogatory 11th.

(Signed) R. H. TALIAFERRO,
U. S. Commissioner, &c.

Exhibit E, annexed to plaintiff's answer to interrogatories-in-chief, is herein transcribed, on pages 30, 31.

Deposition of Caroline Macfarland.

Circuit court of the United States for the district of Louisiana.

JAMES E. MACFARLAND
vs.
HENRY M. NEBLETT. } In equity. No. 6440.

105 The deposition of Caroline Macfarland, duly *duly* taken before me, R. H. Taliaferro, a commissioner duly appointed under the laws of the United States to take affidavit' and deposition', pursuant to a commission hereunto annexed, on the 8th day of February, between the hours of 4 a. m. and 6 p. m., at the residence of Caroline Macfarland, in the city of Petersburg, to be read as evidence in behalf of the plaintiff in certain suit in equity depending in the circuit court of the United States for the fifth judicial circuit, holding sessions in and for the district of Louisiana, wherein James E. Macfarland is plaintiff and Henry M. Neblett is defendant, the interrogatories & cross-interrogatories propounded to the said witness in the same, enclosed with the commission aforementioned to me, as commissioner aforesaid.

CAROLINE MACFARLAND, the witness aforesaid, being carefully examined and cautioned, and duly sworn to testify the truth, the whole truth, and nothing but the truth, deposeth and sayeth as follows, in answer to the several interrogatories-in-chief:

To the first general interrogatory-in-chief she says:

106 Answer 1st. I have known both the complainant and defendant named in the title to these interrogatories from their infancy.

To the 2d interrogatory-in-chief she says:

Answer 2d. I have known Wm. H. McFarland, Sterling Neblett, Norman Neblett, and James H. M. Neblett, the two first since about the year 1831, and the two last from their earliest childhood. Wm. H. Macfarland died on the 10th January, 1872.

To the 3rd interrogatory-in-chief she says:

Answer 3rd. I did have the original bond, of which Exhibit F in the bill is a copy, in my possession for some time. I received it through the regular mail, enclosed in a letter from the defendant to me, on or about October 1st, 1869. I hereunto annex the original of this letter, dated Sept. 29th, 1869, in which the defendant says he had been requested by the plaintiff to send it to me.

To the 4th interrogatory she says:

Answer 4th. I have never had any other communication, written or otherwise, relative to this bond.

107 To the fifth interrogatory she says:

Answer 5th. I have occasionally had letters from Sterling Neblett, but have no recollection of any allusion having been made in them to said bond of complainant until subsequent to an interview with him in the spring of 1868.

To the sixth interrogatory-in-chief she says:

Answer 6th. I have never had any notice of a transfer of said bond of the complainant, set forth as Exhibit F in this bill, to the defendant, H. M. Neblett. In the spring of 1868 I had a conversation with Sterling Neblett on the subject of complainant's indebtedness to him, in which he merely stated to me, in a general way, that he should give his interest in "Mossland" to his son Henry. My first knowledge of any actual transfer of said bond was derived through the letter of defendant to me of Sept. 29th, 1869, enclosing said bond.

To the seventh interrogatory-in-chief she says:

Answer 7th. I gave this bond to the complainant, as he was on the eve of setting out for Louisiana, soon after his return from Europe, in January, 1871.

108 To the eighth interrogatory she says:

Answer 8th. I hereunto annex such letters of Sterling Neblett in relation to said debt as I now have in my possession.

To the ninth interrogatory she says:

Answer 9th. In the spring of 1868 Sterling Neblett called at my house and handed me a sealed paper, which he simply told me was a deed of "Mossland" to his son Henry, and requested me to send it to the complainant. I told him that as soon as I heard from James Edward I would send it to him. I had shortly before received a letter from complainant informing me that he expected to leave England in a few days for Egypt, and not to write to him until I again heard from him. Not hearing from him for several weeks I retained the papers during all this time in my possession. In the meanwhile Mr. Wm. H. Macfarland came to Petersburg and called to see me, and in general conversation with him I remarked that I was glad he and Dr. Neblett had come to some agreement in regard to a disposition of "Mossland." He replied, "We have come to no agreement
109 at all about it; he still contests my claim. I then told him I had a deed in my possession to the property Dr. Neblett had given me to send to James Edward in England. He enquired for what purpose. I replied that Dr. Neblett had told me that it was a deed of "Mossland" to Henry. I added that there was no use of my sending the deed to James Edward as he and Dr. Neblett were not agreed, and asked him what I must do with it. He said send it back to Dr. Neblett forthwith; James Edward can give no valid title to "Mossland" without my concurrence. Whether this deed was the original of Exhibit E in complainant's bill, I am unable to say, as it was a seale l paper. I have had no letters or other correspondence with Sterling Neblett or Wm. H. McFarland concerning it, and the only letters I have ever received from the defendant on the subject is the one of September 29th, 1869, attached to the 3rd interrogatory while the sealed paper was in my pos-

session. Circumstances occurred which excited my suspicion in regard to the good faith of James H. M. Neblett, who was professing
110 to act in the interest of W. H. McFarland and James E. McFarland in settling up the affairs of "Mossland," and I had reason to doubt the truth of certain statements that he had made to me in a letter I received from him dated "Mossland," Feb'y 1st, 1868. I have never in my correspondence with the complainant, James E. Macfarland, made any mention to him of the sealed papers placed in my hands by Dr. Neblett to be forwarded to him; nor until after his return from Europe in 1871.

To tenth interrogatory she says:

Answer 10th. I returned the sealed paper handed me by Sterling Neblett in the condition in which I received it during the month of August, 1868. I sent it by the hand of my own servant to Brickland, his residence, with directions to give it to Sterling Neblett himself. My conversation with Mr. Wm. H. Macfarland, already alluded to, was the cause of my doing so.

To eleventh interrogatory she says:

Answer 11th. I have already stated in my answer to the 10th interrogatory the circumstances attending my return of the sealed
111 paper to Dr. Neblett. I soon after received a letter from him, acknowledging its receipt and requesting me to send him J. E. Macfarland's address, which I did, having heard from the latter in the meantime.

To 12th interrogatory she says:

Answer 12th. Sterling Neblett is the father of Henry M. Neblett, Norman Neblett, and James H. M. Neblett; Henry M. Neblett is about 35, and Norman Neblett about 32 years of age; James H. M. Neblett was about forty-two, and he was a farmer in Brunswick C'y, Va., owning a separate estate. I do not know of any property owned by either Henry M. Neblett or Norman Neblett in their own right prior to 1868.

To thirteenth interrogatory she says:

Answer 13th. The only letter I ever received from J. H. M. Neblett in reference to "Mossland" that I have preserved is the one dated Feb'y 1st, 1868, and hereunto annexed.

To fourteenth interrogatory she says:

Answer 14th. I believe I have already stated all the material
112 facts of which I had any knowledge in relation to the present controversy.

And in answer to the several cross-interrogatories she says:

To first cross-interrogatory she says:

Answer 1st. My name is Caroline Macfarland, and residence, Petersburg, Va. I have no avocation, and am a widow.

To second cross-interrogatory she says:

Answer 2d. The plaintiff in this suit, James E. Macfarland, is my stepson.

To third cross-interrogatory she says:

Answer 3d. I loaned the plaintiff several thousand dollars prior to the year 1861. I have loaned him nothing since. I have within the last five years given sums of money to the complainant, but for his necessary personal expense only. I have not at any time given or advanced money, credit, or property of any kind for the purpose of carrying on this suit.

To fourth cross-interrogatory she says:

113 Answer 4th. There is no agreement, understanding, or promise, written, verbal, or tacit, by which I would be a beneficiary by the decision of this suit favorably to complainant. So far from being swayed by self-interest, I was opposed to his bringing the suit in consequence of family exposures which it involved.

And further said witness sayeth not.

(Signed) CAROLINE MACFARLAND.

Letter.

MY DEAR AUNT: Mrs. Caroline McFarland will receive the enclosed bond of James E. McFarland, endorsed paid, who by letter requested his bond to be delivered up to you, and this date I advise him I have done so, having received his deed for the purchase of Mossland, where I shall go & try & do the best I can under universal desolation—a second Palestine visited by Yankee crusaders. All our circle at Brickland unite with me in the kindest regards & best wishes for you & yours.

Very truly,

(Signed) H. M. NEBLETT.

BRICKLAND, VA., *Sept. 29th*, '69.

(Endorsed:) Annexed to witness, Caroline Macfarland's answer to interrogatory 3rd.

(Signed) R. H. TALIAFERRO,
U. S. Commissioner.

114 [Private.]

WEDNESDAY, *5th January.*

After receiving James Edward's deed for his right only to "Mossland," I went and proposed a compromise & arrangement with Mr. Macfarland & Henry, to whom I gave my bond—an entire failure. I will not trouble you with reason & difficulties. Henry decided to go & investigate matters. He finds two liens of about $12,000 covering the property; one a judgment, which will consume the little personal estate, he says. I am thinking and investigating—what he, Williams, whether to abandon his bond & deed & the property, or to pay all debts on the property, to get a good title, then to settle, live there and make sugar, for the place cannot be sold now—hundreds of places abandoned. He seems pleased with the country. To pay $12,000 cash to creditors, then about $10,000 to enable him to make sugar, a heavy sum these times, I know not how he will decide. Mr. MacF. holds James Edward's deed to see if it has any vitality or value.

His debt about	$23,000
To pay others	12,000
	$35,000

115 Henry said he would at the sale buy in Jas. Edward's house furniture, and little things, if he could, if he decided to settle there.

There are many reasons why I still think James Edward ought to have gone & lived on his place Mossland.

(Endorsed:) Annexed to witness, Caroline Macfarland answer to interrogatory 8th.

(Signed) R. H. TALIAFERRO,
U. S. Commissioner.

Letter.

MY DEAR MRS. MACFARLAND: When in Richmond, Mr. McCay, (lawyer,) from Orleans, called on me. I said to him, "Mrs. Caroline Macfarland, of Petersburg, Va., desires that you will mail to her the bond executed by Jas. E. Macfarland to her payee. I hope, sir, you will do it on your return home in Orleans." I trust, madam, he has done so.

At the same time Mr. Wm. Macfarland called on me, to whom I said, "Sir, I understand thoroughly the position of Mossland. Mr. Broussard, the vendor, has first lien to secure him about $10,000; Mendoza has a judgment for about $4,000. You & Henry, jointly &
116 equally, pay these 2 debts, then sell the place, the 1,200 acres of land, share equally any profits, or bear equally the losses." He declined to do that. I then said, "Your claim on that place is not worth one dollar; but as legal controversies seldom pay debts, and seldomer complimentary to either party, will you give Henry three thousand dollars for his right and he will deliver you possession of 'Mossland,' retire from litigation with others & you." This proposition he also declined; and thus that complicated affair in dubiis, in statu quo.

I have always regarded the making of sugar in Lou'a as a forced culture—too cold, too far north—and the scarcity & high price of labor, and now the large sum of cash to procure supplies, mules, &c., &c. Frost, frost. All of Henry's brothers are opposed to his position—dangerous, & may be fatal. Yet Henry has decided to go it, submit to circumstances & destiny, & I shall not dissuade him; being of a phthisical organi-
117 zation, & to live in latitude 30° north may be prudent & wise.

Our son Jas. is a wreck physically & mentally, universally paralysed, & reminds us of Mr. Thos. Lochhead's affliction.

We have him at Brickland entirely helpless, & well nursed.

Mrs. Ann & myself are too feeble to go South. We are in the winter of our lives, & we must submit to the winter of the seasons.

We all often think & mention you & your dear uncle, & wish we had all of you this Xmas before our cheerful wood-fires & share with us the plain creature comforts of the country.

Wife, Nannie, all unite with me in the kindest remembrances & sincere wishes that you & yours will enjoy good health & live as long as life is pleasant & useful.

Affectionately,

(Signed) STERLING NEBLETT.

DECB'R 20*th*, 1869.

(Written across the face:) Annexed to witness Caroline Macfarland's answer to interrogatory 8th.

(Signed) R. H. TALIAFERRO,
U. S. Commissioner, &c.

MY DEAR MRS. MACFARLAND: It was so agreeable to be informed by William that you were so well, cheerful, happy with your sweet & interesting family around you. Doubtless the retiring & going
118 down of the Yankees relieves you; yankeydom is now a tank for

all that is viscious, vile, corrupt, & its citizens in morality & religion had sunk below the negroes & hottentots. Who can live and associate with them when they have neither virtue, mercy, nor bravery? Cæsar spared the conquered; Wellington punished the theifish soldiers. I answered the letter of enquiry of a distinguished Presbyterian, north, "That the best, purest Christian South, could never love the Yankees that invaded us," and &c.

Well, madam, Mrs. Ann & myself have dragged along through the winter. She every morning reads her prayers & newspapers without spectacles—can read the smallest prints—returning sight at 76, & her head as black as it was at 30.

Nannie, cheerful, keeps house or aids her mother, & her fondness for reading has increased—a good substitute for personal society.

Too cold for garden—peas up, & sat out lettuce, cabbages, but have no tomatoes up.

In milder weather, I shall be obliged to go to Richmond, if
119 Toby (who begs to go) pulls me about there in wheelbarrow.

The ladies are absent, having prepared first breakfast of shad. They said give our best love to all, every one, with whom I unite, with the kindest regards & esteem.

(Signed) STERLING NEBLETT.

APRIL 2d, 1870.

P. S.—When last in Richmond, McCay called on me, & said on my return to Orleans, I will mail the bond "to Mrs. Caroline Macfarland, Petersburg, Va." Strange Orleanist, they seldom think of anybody not present—absent—2d March. Henry is his own overseer, struggling hard to prevent ruin. They will run a railroad in 50 y'ds of the house, a depot, court-house, Yanks, Jews, *Jews*, Irish, Dutch, grog-shops will, may ruin the place for culture sugar. Mr. McF. Rich, he refuses compromise to sell & divide, threatens suit, if not for him Henry could compromise with the other 2 claimants, sell and divide something, however little—sell, sell, & come back to please his mother—hard to sell a place & suit.

(Endorsed:) Annexed to witness Caroline Macfarland's answer
120 to interrogatory 8th.

(Signed) R. H. TALIAFERRO,
U. S. Commissioner, &c.

Letter.

MY DEAR MRS. MACFARLAND: We were pleased to hear you, M Caroline, & Lina had gone to the mountains, & we sincerely hope you & party have laid up good health to last many, many years.

On 20th May, I received by mail, (from I know not,) a printed copy of James Edward's bill in chancery, Federal court, No. 6440, vs. Henry M. Nebbett, Louisiana, N. Or.

This bill is very unbecoming to, in him, & has induced others to follow. Says 4 suits or writs served, & 2 more ordered—and to break him up, & before Jan'y 1st, '72, two more suits are expected.

He very reluctantly, against the advise of his mother & brothers, emigrated, borrowed over $7,000, & with it went to work to pay Jas. Edward's mortgaged debts, if he could, or sell the property to do it.

I want him to give up his crops, everything, to pay expenses &
121 his factor for advances—obey the mandate, "owe nobody."

These suits may be litigated, attended with heavy cost; and there was no wisdom in bringing them. I suppose you have been furnished one of his printed bills. See his Exhibit A, (my letter.) It explaining itself—testimony to sustain it. James Edward abandoned the property for 10 years, not a dollar coming in to pay mortg's, whose interest about or nearly doubled his debts. I cannot see any wisdom in these suits; will clearly injure his creditors. He can't pay off $80' or 100,000.

The Federal Army occupied the place 2 months, (see Capt. Burt's report to Sheridan.) When Henry took possession of it it was a skeleton—without clothes, (fences,) arteries & veins, (ditches,) muscles, (mules & negroes,) & it may be the case again—fleeced to pay expenses & borrowed money. Mr. Brown writes to me that sugar-property is going down, and I say the railroad may clutch, fasten down "this castle (Mossland) in the air," & if a depot on the place, it will benefit German, Jews, Irish gadders, "radical thieves," & Yankee spurts. I advised Jas. Edward not to turn sugar-planter, yet I committed the folly
122 of loaning him $9,000 in Oct., '57, to make first payment of the land; & I expect he never paid a dollar beyond the amount I loaned him to pay, "defer'ed" payments in Jan'y, 1861, (see deed,) for the land; balance still due to Broussard, as I am told. Is it reasonable to complain that Henry ought to have paid from one crop (1870) Broussard, Mendoza & Co.? I guess expenses to factors, $7,000, & mules cost over $4,000—alas! He will, I hope—his lawyers say no—give up the place & pay debts.

Mr. Wm. Macfarland said Broussard's & Neblett's mortgage will absorb the value of the whole estate. We were so opposed to litigation with him, on 11 Aug., 1869, I said to him, "Give Henry $3,000 for his bond & deed, & let him retire—escape from controversy with you & other parties." He replied, "I will not buy." Then, sir, Henry will foreclose his trust-deed, &c., &c., &c.

In your letter to me Sept'r 19th, 1865, you say, "I have written to Jas. Edward to let me know exactly how things are with him and his uncle and Dr. Barksdale, if they were not connected with him."
123 On 20th March, 1866, you say, by letter, "I have received a letter from Dr. Barksdale, who has just returned from James," South, &c., &c., on the Tash, (Teche.)

I will thank you to send me Dr. Barskdale's letter; also James Edward's reply—answer to yours of 19th Sept., 1865. After seeing them will return them to you, if you desire me to do so.

I gave to Henry the bond due by James Edw'd in the spring of 1868. Henry lost everything by war.

Mr. Wm. never would take possession nor control of Mossland, pay taxes, nor other expenses. You know it is the practice there, one owns the land, & 2d join as partners to make sugar, &c., as I supposed was the case with James & his uncle & Dr. Barksdale. There is good proof of that fact. What became of the $21,000 from the crop of 1861 by Mr. Black? Mr. William H. says "he never received one dollar for the occupation of the place." (See his letter.) Who got that money?

I tried to quiet matters; failed in doing it. Henry & his solicitors are more able to give attention to ten suits than I am. In this
124 case (Mossland) I am neither creditor nor debtor.

All unite with me in best wishes & pure esteem for you & yours.

13th Sept'r, 1871—13 Sept.

(Signed) STERLING NEBLETT.

See his Exhibit A. "We all commit errors. You ought to have remained on Mossland." I begged him to do it now. The personalty under execution to be sold Henry stopped; prevented the sale—attachments & sale. If he had not interfered! Who will do it now? I proposed in July, '68, volunteered & said to Wm. H. M. & Henry, "Raise ½ each to buy preferred lien-debts—Broussard & Mendoza's; and as the place is so dilapidated, it cannot now be sold; each raise ½ to repair, stock the place, & cultivate it as partners; sell it as soon as it could be sold, pay all costs, insurance expenses, &c.; if an excess, divide that excess surplus ½ to each—Henry ½, Wm. H. M. ½." He said "he was pleased with that proposition," & "would try carry it out."

He, Mr. M. F., tried for nearly a year, failed to raise the money,
125 & then from necessity never raised a dollar; declined doing or assisting Henry, who very reluct'ly undertook to try work to pay Jas. Ned's debts & save something for himself; but, alas! Jas. Ned, although he "had fully determined never again to become a citizen of the United States," returned, put himself in front to injure his creditors & 2 ruin Henry.

French maxim: "To your friend, your money lend, yo'll lose both money and friend." Henry's counsel say the proposition to Wm. was too liberal to allow him to unite, although this same proposition was renewed in July, 1871, to his trustees, who also declined—Wm. H. M. would not, could not help—wanted help, *help*. Poverty, Henry & James Edward, like Macduff laid on.

In this Kilkenny affair who will save his pocket? We shall see. I trust you will. In 1863, (see your letter) you said you had $3,000 of James Edward's money, & that you would pay James Edward's factor', Rotchford, Brown & Co. We saved you from doing that; as factor' they could afford to take the chances or lose. I was no factor. You
126 and I loaned him money from morbid motives of kindness to assist him to go to work—a great error in me. Has he made a dollar in 10 years? He told me "he had not a dollar in the world." I now agree with you when you said in your receipt to Henry, "I never want James Edward to come to Virginia again." He told a gentleman in 1861, Dr. Neblett is one of my best friends; loaned me more money than I got from estate." Mr. Wm. H. urged me to pay him what Jas. E. owed him. "You can do it. A heavy blow on me to lose it." He said "how unreasonable. I am very feeble, but able to write."

(Signed) STERLING NEBLETT.

SEPTR. 13TH, 1871.

(Written across the face:) Annexed to witness, Caroline MacFarland's, answer to interrogatory 8th.

(Signed) R. H. TALIAFERRO,
U. S. Commissioner, &c.

2D OCT., '71.

MY DEAR MRS. MACFARLAND: After reflection, I now regret having asked you to show me a letter of James Edward and one Dr. Barksdale, written to you in the winter & spring of '66, (see my letter.) I withdraw the request, & trust you will not hesitate to decline sending them to me. Counsel say they are not wanted.

If you have seen James Edward's printed bill in chancery, con-
127 Do seld it. sisting of inconsistencies, untruths, & morbid temper, I am sure you will excuse resentment on my part towards him, to

whom I loaned all the money, I suspect, I expect he ever paid for the land. Balance still due Broussard, to pay whom Henry has borrowed a large sum; yes, *alarm* sum, to repair, improve the place, & make sugar, from which to pay Broussard. James Edward did not pay a dollar to Broussard in ten years, because Henry's poverty from a short-frosted crop of one year, 1870, he could not pay. Jas. Edward took the front in suits; that will, in my opinion, ruin Henry, & counsel say will not benefit Jas. Edward a dollar, unless there should be a surplus after paying all his debts, supposed, guessed to be over $80,000—Ould & Carrington, trustee', have made full inquiries, & they write to me it may probably be sold for $35,000; who that has $35,000 will buy Mossland shingled over with suits, to last perhaps until the shingles wear it?

Thousands of acres around it, in market at $5 per acre.

I want him, Henry, to give up the place to the creditors James
128 Edward, if he will pay down his debt, & let his mules & stock go in, if he will pay for that; but I am neither creditor nor debtor, now in this case. In the spring of 1868, I gave my bond with mortgage to son Henry.

Jas. Edw., ten years ago, abandoned his property & creditors, & it is in proof thereof sued, sold for over $14,000, *of* 1861, & again $7,000; what became of that $21,000? He did not pay his mortgagees one dollar; they would have been pleased to have gotten it, & his uncle says (see his letter on file) he "did not get one dollar for his occupation of place;" what became of it? Perhaps flitted to London.

Henry is in the hands of his counsel, & will be governed by them & submit to the law. Broussard first mortgage about $12,000; 2d is Henry's bond & mortgage; say guess 22 or 25,000; & 3rd, Mendoza, about $4,000. Judgment, say, total, (by memory,) suppose, $40,000.

Henry will, may, succeed at law, & be left with an empty purse possibly. I will not lend nor give him another dollar.

Jas. Edward failed practising law, failed planting, failed in
129 diplomacy, & what next?

I want quiet, peace, & will not disturb him if he will "hands off." "His uncle," to me—letter before me—says, "sincerely do I regret Jas. Edward has raised a question between us by acts unfavorable to him."

His 2 letters more compl'g vs. Jas E.

I complained to him, when he said the vendor's lien was the only lien on the place, & did not tell me your mortgage covered it. He justified himself, &c., &c., &c.

We all hope you & yours have been much benefitted by your mountain trip, & have gotten safely home.

Affect.

(Signed) STERLING NEBLETT.

OCT. 4TH, 1871.

Henry's mother & brothers all opposed his emigrating & going. Dr. Sterling, jr., his brother, said "Henry, I had rather follow you to your grave." His poverty forced him to go and take possession of this property. Borrowed thousands to work, & try & pay Jas. Edw. mortgages. What is legal to be done? These suits—4, 6, 8—probably 2 more—may ruin Henry by cost & frost, & injure his (J. E.) cred-
Ja. 130 itors. Will the court cancel his deed of sale, & give possession to one who abandon' this property & creditors 10 years ago, & fully determined never again to become a citizen of the U. St'es? (See his letter before me.) He paid no taxes. (Henry did it—guess about $1,200.) Left no curator. Yanky army occupied it 2 months. (See

Capt. Burt's report to Genl. Sheridan.) He delivered it to Mendoza, because he never entered the rebel service, &c., &c. His uncle said "left the place in waste—in want of everything." Letter before me. What is now to be done? See my letter in his bill, Exhibit A. Suppose J. Ed. & the trustees withdraw their suits. The suits in the State court will decide what must be done. I advise, let Mossland be sold at public auction, & court decree what is to be done with the money, & I advise in the fall of 1871—say De'ber. I have no authority, & will assume none.

(Written across the face:) Annexed to witness Caroline Macfarland's answer to interrogatory 8th.

(Signed) R. H. TALIAFERRO,
U. S. Commissioner, &c.

Letter.

MOSSLAND, ST. MARTIN, LOUISIANA,
Feby. 1st, 1868.

MY DEAR AUNT CARRIE: When I arrived in New Orleans, I
131 learned that an attachment had been gotten out against James Ed. property, including beds, mules, stock of all kinds, household & kitchen furniture; in fact, everything, to be sold on such a day. I felt sorry; hurried up here, stopped the sale, bought the vendor's lien on the place, & I now own everything, & planting sugarcane & corn. It is fine property. A good many of the old negroes are here & will stay. I think I shall plant sixty arpents in sugar.

Now, I don't want this place to go out of the family, & will let you take the vendor's lean at cost, paying 2,000 dollars next December, 2,000 12 months thereafter, & about $4,000 in five years. Now will bother you but the first payment, & that may not. I hope to pay by sugar. I will here, & will manage the place. The climate in Va. don't suit me, & I must live here. We have no trouble about labour here; can get plenty of hands, & good mules for fifty dollars apiece. You can think the matter over, & decide for yourself.

132 I shall leave here on the third of February for Mississippi, & then for Virginia; may get there by the time you get this. For fear I may not stop in Petersburg, write me to Laurenceville. My love to all the family.

Affectionately,
(Signed) I. H. M. NEBLETT.

(Written across the face:) Annexed to witness Caroline Macfarland's answer to interrogatory 13th.

(Signed) R. H. TALIAFERRO,
U. S. Commissioner, &c.

STATE OF VIRGINIA,
City of Petersburg, to wit:

I, Robt. H. Taliaferro, commissioner of the United States for the eastern district of Virginia, to whom the annexed commission was directed, do certify that the foregoing depositions were reduced to writing by me, and signed by the said James E. Macfarland and Caroline Macfarland; and that the several proceedings therein mentioned were duly had and taken before me at the times and place mentioned therein. And I do

further certify that I am not counsel or attorney for either of the parties to the said suit, nor am I interested in the events thereof.

Witness my hand & seal this 10th day of February, 1872.

(Signed) R. H. TALIAFERRO, [SEAL.]
U. S. Commissioner District of Virginia.

133 *Notice of motion to appoint special examiner.—Filed February 23rd, 1872.*

Circuit court of the United States for the district of Louisiana.

JAMES E. MACFARLAND *vs.* HENRY M. NEBLETT. } In equity. No. 6440.

SIR: You will please take notice that at a stated term of this court, to be held on the 23rd day of February, 1872, at the city of New Orleans, the complainant in this cause will move at 11 o'clock in the forenoon, or as soon thereafter as counsel can be heard, for an order that F. A. Woolfley, esq., of New Orleans, be appointed special examiner herein under the 67th rule as amended, to take the depositions of Shepherd Brown and Robert Mott, witnesses on the part of said complainant.

Dated February 20th, 1872.

Yours, &c.,
(Signed) HUDSON & FEARN,
Solicitors for Complainant.

To C. T. BEMISS, Esqr.,
Solicitor for Defendant.

Service accepted and consent allowed.
(Signed) C. T. BEMISS, *Solr.*

134 *Motion for special examiner.—Extract from minutes, 23rd February, 1872.*

JAMES E. MACFARLAND *vs.* HENRY M. NEBLETT. } In equity. No. 6440.

Upon reading and filing notice of motion with admission of service and consent, and on motion of J. A. Campbell and Hudson and Fearn, solicitors for complainant, no one opposing, it is ordered that F. A. Woolfley, esq., of New Orleans, be, and he is hereby, appointed special examiner herein, under the 67th rule as amended, to take the depositions of Shepherd Brown and Robert Mott, witnesses on the part of complainant in this cause.

Depositions of Robert Mott and Shepherd Brown on behalf of complainant, taken before F. A. Woolfley, special examiner.—Filed March 4th, 1872.

Circuit court of the United States, fifth circuit, district of Louisiana.

JAMES E. MACFARLAND *vs.* HENRY M. NEBLETT. } No. 6440. In equity.

135 Testimony taken on the part of the complainant under the 67th rule of practice for the courts of equity of the United

States, by F. A. Woolfley, special examiner, duly appointed by the said court to take the depositions of Robert Mott and Shepherd Brown in *in* the said cause.

NEW ORLEANS, *Monday, March 4th*, 1872.

Present, E. M. Hudson, esq., counsel for complainant.
" C. T. Bemiss, esq., counsel for defendant.

ROBERT MOTT, produced and sworn on the part of the complainant, deposes and says:

I reside in the city of New Orleans; am a practising attorney at law, and a member of the firm of Semmes and Mott; as a member of that firm I received the documents marked "Exhibits G & H," which are annexed hereto, from Ould Carrington, of Richmond, Va., enclosed in a letter from them dated Feby. 13th, '72, they having sent the same to Semmes & Mott at their request, at the instance of Messrs. Hudson & Fearn, solicitors of James Edward McFarland.

I do not feel authorized to leave the originals, and the solicitor of complainant and defendant having compared them with the Exhibits
136 G & H, filed with and printed with the original bill, agree that they are exact copies of the originals and are to be used in place thereof, and I now withdraw the originals.

(Signed) ROBERT MOTT.

Subscribed and sworn to before me this 4th March, 1872.
(Signed) F. A. WOOLFLEY,
Special Examiner.

SHEPHERD BROWN, produced and sworn on the part of the complainant, deposes and says:

I am over seventy years of age; reside in the city of New Orleans, and have been a merchant for many years.

I have known the late Doctor Sterling Neblett for upwards of thirty years. I was his commission merchant for many years, and also his banker at Vicksburg, in Mississippi. I have frequently seen Dr. Sterling Neblett write and sign his name, and have had a long extended correspondence with him and now have many letters written by him in my possession. I have examined the two documents, marked "Ex-
137 hibits G & H" produced by Mr. Robert Mott. Document marked "Exhibit G" is a letter dated August 12th, 1868, entirely written and signed by Dr. Sterling Neblett, addressed to Mr. William H. Macfarland. I know that this is the handwriting and signature of said Sterling Neblett.

Document marked "Exhibit H" is a receipt to W. H. Macfarland for a deed to Henry M. Neblett, dated August 11th, 1869, in the handwriting of W. H. Macfarland, with which I am likewise familiar, but the signature to said Exhibit H is that of the said Dr. Sterling Neblett in his own proper handwriting.

(Signed) SHEPHERD BROWN.

Subscribed and sworn to before me this 4th March, 1872.
(Signed) F. A. WOOLFLEY,
Special Examiner.

Counsel for complainant offers in evidence the said two documents, produced by Robert Mott, the signatures to which have been proved by

Shepherd Brown, marked "Exhibits G and H," the originals of the
138 Exhibits marked "G. & H" in the bill printed and filed in the cause.

And the undersigned, counsel for complainant and defendant, having compared the said two documents with the copies thereof set forth as Exhibits G and H, and printed in the bill filed in this cause, and having ascertained the printed copies to be true and correct copies of these two originals produced by Robert Mott, do hereby consent and agree that Robert Mott may withdraw the said originals, and that the printed copies thereof, marked "Exhibits G and H," in the printed bill filed herein, may be used in evidence in lieu of said originals.

(Signed) HUDSON & FEARN,
Solicitors for Complainants.

(Signed) C. T. BEMISS,
Solicitor for Defendant.

139 UNITED STATES OF AMERICA,
District of Louisiana, ss:

I, Francis A. Woolfley, special examiner, duly appointed by the circuit court of the United States for the district of Louisiana, in the fifth circuit, a copy of whose order issued on the 23rd day of February, 1872, is hereto annexed, to take the testimony of Robert Mott and Shepherd Brown, witnesses on the part of the complainant, do hereby certify that on the day named in the depositions hereto annexed I was attended at the office of the clerk of said circuit court, in the city of New Orleans, by the counsel and witnesses aforesaid.

That the said witnesses were duly sworn and examined, and the depositions were reduced to writing and read to the witnesses and by them subscribed in my presence; and that Exhibits G and H were introduced in evidence in said cause during the taking of said
140 depositions.

New Orleans, March 4th, 1872.

(Signed) F. A. WOOLFLEY,
Special Examiner.

141 *Publication of testimony.—Extract from the minutes November term,* 1871.

NEW ORLEANS, *Monday, March 11th,* 1872.

Court met pursuant to adjournment. Present, Hon. W. P. Woods, presiding judge.

J. E. MACFARLAND *vs.* HENRY M. NEBLETT. } No. 6440.

On motion of J. A. Campbell & Hudson & Fern, solicitors for complainant in the above-entitled cause,

And on suggesting to this honorable court that the time for taking testimony & evidence in this cause expired on the first Monday in March, 1872, the testimony of witnesses on behalf of complainant, taken under commission in Petersburg, Virginia, has been returned and filed herein,

Ja It is ordered that all testimony and evidence taken in this cause be published, & that said cause be fixed for trial.

142 *Consent to submit cause on briefs.—Filed June 15th*, 1871.

Circuit court of the United States for the district of Louisiana.

JAMES E. MACFARLAND
vs.
HENRY M. NEBLETT. } In equity. No. 6440.

Counsel for complainant and defendant in the above-entitled cause hereby agree to submit the same on the evidence now on file, and on briefs to be filed by the 15th of June, 1872, to the honorable court during vacation, or after close of the present term, all the papers and briefs to be presented to the court as soon after July 1st, 1872, as possible.

April 22d, 1872.

(Signed) J. A. CAMPBELL AND
HUDSON & FEARN,
Solicitors for Complainant.

(Signed) E. SIMON &
C. T. BEMISS,
Solicitors for Defendant.

Decree.—Extract from minutes November term, 1872.

NEW ORLEANS, *Monday, March 3rd*, 1873.

Court met pursuant to adjournment. Present, Hon. W. B. Woods, circuit judge.

143 J. E. MACFARLAND
vs.
HENRY M. NEBLETT. } No. 6440.

This cause came on to be heard upon the bill of complaint and exhibits; the answer of defendant, replication of complainant, and the evidence was argued by counsel. On consideration whereof, the court being fully advised in the premises, is of opinion that the equity of the case is with the complainant, and that the averments of his bill of complaint are true.

It is therefore ordered, adjudged, and decreed that the said deed, bearing date the 19th day of September, A. D. 1868, executed by the said complainant and conveying to the said defendant the said plantation in the bill of complaint described and designated as "Mossland" be, and the same is, declared null and void and of no effect, and that the title to the said plantation is declared to be vested in the said complainant to the same extent as if said deed had never been executed.

It is further ordered, adjudged, and decreed that within thirty
144 days the said defendant make, execute, and deliver to the complainant a deed reconveying said plantation to him, in fee-simple, and in default thereof that this decree shall have the same operation and effect as the execution and delivery of said deed.

But neither the execution and delivery of such deed nor this decree shall in any wise effect the lien of said defendant in said plantation, created by the deed of trust thereon, to secure the said bond for fourteen thousand four hundred and sixty-four dollars and 51 cents.

It is further ordered, adjudged, and decreed that the original of said bond now on file in this cause be delivered up to the said defendant, unaffected by any endorsement of credit or payment thereon.

It is further ordered, adjudged, and decreed that this cause be referred to J. W. Gurley, one of the masters of this court, to take and state an account between the complainant and defendant, touching the use and occupation of said plantation by said defendant, and any taxes thereon paid by defendant or permanent and valuable improvements
145 placed there by him. In stating said account said master shall charge the defendant with the value of the use and occupation of said plantation during such time as he may find it to have been in possession of defendant, and shall credit defendant with all taxes paid by him in said business & with the value of all lasting and valuable improvements put there by said defendant. In stating said account the said master may examine the parties, or either of them, under oath, and may take the testimony of such other witnesses as he might think necessary, and he shall make his report, as provided in this decree, to the next term of this court.

It is further ordered, adjudged, and decreed that said defendant deliver without delay the possession of said plantation to the said complainant.

It is further ordered, adjudged, and decreed that defendant pay the costs of this case which have been made up to the rendition of this decree, and that in default of such payment within thirty days that execution issue therefor.

146 *Rule and grounds for a new trial.—Entered & filed March 7th*, 1873.
Extract from the minutes.

JAS. E. MACFARLAND
vs.
HENRY M. NEBLETT.

On motion of C. T. Bemiss, solicitor for defendant, and on suggesting to this hon'ble court that there is error in the decree herein rendered on the 3rd March, 1873, and that the said error is to the prejudice of defendant and in violation of the equity which should govern the cause, that the cause should, before disposing of the bill of complaint on the merits, first have passed on the question of William H. McFarland's status, and, if he was a necessary party, that erasing the following words from the decree, viz: "but said deed of trust shall be and remain a lien upon said land for amount due on said bond," was in violation of equity, and its simple return will be a vain thing to do. If this court cancels all that has been done, it must preserve defendant's rights in such a way as to either decree their recognition in the judgment that
147 will be entered in this case, or vitalise the bond in such a manner as to prevent it being barred by statutes of limitations or extinguished by prescription.

For these and other reasons, to be assigned in argument on this motion, defendant's solicitor asks that complainant show cause on the 15th day of March, 1873, why a new trial should not be granted and allowed.

(Signed) C. T. BEMISS, *Sol.*

Hearing and submission of rule.—Extract from minutes of March 24th, 1873.

J. E. MACFARLAND
vs.
H. M. NEBLETT. 6440.

The rule for a new trial was called, and, after hearing argument on both sides, the court took time to consider.

Amended decree—Extract from minutes March 26th, 1873, and decree docket.

JAS. E. MACFARLAND
vs.
HENRY M. NEBLETT. } No. 6440.

148 The court having duly considered the motion for a new trial—Ordered, that the same prevail, and that the decree entered on the 3rd instant be so modified as to read as follows, to wit:

This cause came on to be heard upon the bill of complaint and exhibits, the answer of defendant, replication of complainant, and the evidence, and was argued by counsel.

On consideration whereof, the court being fully advised in the premises, is of opinion that the equity of the case is with the complainant, and that the averments of his bill of complaint are true. It is therefore ordered, adjudged, and decreed that the said deed, bearing date the 19th day of September, A. D. 1868, executed by the said complainant and conveying to the said defendant the said plantation in the bill of complaint described and designated as "Mossland" be, and the same is, declared null and void and of no effect, and that the title to the said plantation is declared to be vested in the said complainant to the
149 same extent as if said deed had never been executed.

It is further ordered, adjudged, and decreed that within thirty days the said defendant make, execute, and deliver to the complainant a deed reconveying said plantation to him in fee-simple, and in default thereof that the decree shall have the same operation and effect as the execution and delivery of said deed.

But neither the execution and delivery of such deed nor this decree shall in anywise effect the lien of said defendant on said plantation, created by the deed of trust thereon to secure the said bond for fourteen thousand four hundred and sixty-four dollars and 51 cents.

It is further ordered, adjudged, and decreed that the original of said bond, now on file in this cause, be delivered up to the said defendant, unaffected by any endorsement of credit or payment thereon; but this decree shall be without prejudice to any right which the defendant has under the bond and mortgage, which he derived by the assign-
150 ment of Sterling Neblett, but they shall have the same force and effect, as if the deed had not been made or any cancellation of the bond taken place.

It is further ordered, adjudged, and decreed that this cause be referred to J. W. Gurley, one of the masters of this court, to take and state an account between the complainant and defendant touching the use and occupation of said plantation by said defendant, and any taxes thereon paid by defendant, or permanent and valuable improvements placed there by him.

In stating said account said master shall charge the defendant with the value of the use and occupation of said plantation during such time as he may find it to have been in possession of defendant, and shall credit defendant with all taxes paid by him in said business, and with the value of all lasting and valuable improvements put there by said defendant. In arriving at which he, the said master, shall enquire what lasting and valuable improvements have been made by the defendant which enhances the value of the property or be beneficial
151 to the owner, and such other improvements as may be beneficial and their value, and in his account to allow such as the defend-

ant would be entitled to claim under the code and jurisprudence of the State of Louisiana under these circumstances, and to report any matter of fact or of law that he may deem proper to explain his report.

In stating said account the said master may examine the parties or either of them under oath, and may take the testimony of such other witnesses as he may think necessary, and he shall make his report, as provided in this decree, to the next term of this court.

It is further ordered, adjudged, and decreed that said defendant deliver, without delay, the possession of said plantation to the said complainant.

It is further ordered, adjudged, and decreed that defendant pay the costs of this cause, which have been made up to the rendition of this decree, and that in default of such payment within thirty days that execution issue therefor.

152 Decree rendered March 26th, 1873.
Decree signed March 27th, 1873.
(Signed) W. B. WOODS, *Judge.*

Petition and order for appeal.—Filed April 4th, 1873.

Circuit court of the United States for the district of Louisiana.

JAMES E. MACFARLAND
vs.
HENRY M. NEBLETT. } In equity. 6440.

To the honble. the judges of the circuit court of the United States for the district of Louisiana:

The petition of Henry M. Neblett, defendant named in the bill of complaint in this cause, who petitions in his said character and capacity as set forth in his answer to said bill of complaint, respectfully shows unto your honors that he feels ag'rieved by the final decree in this cause on 26th of March, and signed on the 27th of March, 1873, condemning defendant to reconvey the property fully described in the bill of complaint without granting adequate compensation there-
153 for, and that he is advised and believes that there is error to his prejudice, and that he desires to appeal from the said decree to the Supreme Court of the United States that the decree of the lower court may be reversed.

Wherefore petitioner prays that, upon his furnishing bond in such amount as the court may deem just and sufficient for the purpose, with good and solvent security, conditioned as the law directs, *that* he be allowed an appeal in due form of law, to act an' operate as a supersedeas, returnable in said Supreme Court of the United States on the second Monday of October, 1873, & for general relief, &c., &c., &c.

(Signed) C. T. BEMISS,
Solicitor.

Order.

An appeal to operate as a supersedeas is allowed in this case, as prayed for and according to law, returnable to the Supreme Court of the U. S. the 2d Monday of Octr. next, on the applicant's giving bond in the sum of $2,000, with surety, according to law.

April 4th, 1873.
(Signed) E. H. DURELL, *Judge.*

154 *Bond for appeal.—Filed May 26th, 1873.*

UNITED STATES OF AMERICA:

Know all men by these presents that we, Henry M. Neblett, as principal, and Dudley T. Peebles, as security, are held and firmly bound, jointly and severally, unto James Edward McFarland, in the sum of two thousand ($2,000) dollars, lawful money of the United States of America, to be paid to the said James E. McFarland, his heirs, executors, administrators, and assigns, for which, well and truly to be made, we bind ourselves and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated the 26th day of May, in the year of our Lord eighteen hundred and seventy-three.

Whereas Henry M. Neblett has presented a petition to the honorable the circuit court of the United States for the fifth circuit, holding sessions in and for the district of Lousiana, praying an appeal to operate as a supersedeas from a decree herein rendered on.

155 Now, the condition of the above obligation is, that we, the above-bounden Harry M. Neblett and Dudley T. Peebles, will well and truly pay to the said James E. McFarland, the complainant in said bill, all such damages as he may recover against us in case it should be decided that the said appeal was wrongfully obtained.

(Signed) H. M. NEBLETT. [SEAL.]
(do.) D. T. PEEBLES. [SEAL.]

Signed, sealed, and delivered in the presence of—
(Signed) ADELMA BROUSSARD.
(do.) JOS. A. MENDOZA.

Approved.
(Signed) E. H. DURELL, *Judge.*

Before me, the undersigned authority, came and appeared Dudley T. Peebles, personally known to me to be said party, who, being first duly sworn, did declare that he did sign and become surety in solido on a certain bond of appeal, with Henry M. Neblett as principal, duly conditioned according to law, on behalf of defendant and appellee, in

156 an appeal taken from a judgment of the honorable the circuit court of the United States for the 5th circuit and district of Louisiana, in the case of James E. McFarland vs. Henry M. Neblett, No. 6440, in equity, on the docket of said court, in the sum of two thousand dollars, and that he is worth the said sum over and above all debts.

(Signed) DUDLEY T. PEEBLES.

Subscribed & sworn to before me this 22d day of May, A. D. 1873.
(Signed) L. I. McGAFFY,
J. P., Parish of Iberia, La., 2d Ward.

157 UNITED STATES OF AMERICA.

Circuit court of the United States, fifth circuit and district of Louisiana.

CLERK'S OFFICE.

I, Francis A. Woolfley, clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, do hereby certify that the foregoing 156 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of James E. Macfarland vs. Henry M. Neblett, No. 6440 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 23 day of August, A. D. 1873.

[SEAL.] F. A. WOOLFLEY, *Clerk.*

I, Edward H. Durell, United States judge for the district of Louisiana, do certify that Francis A. Woolfley, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand, at the city of New Orleans, in said district, this 23d day of August, A. D. 1873.

E. H. DURELL, *Judge.*

158 THE UNITED STATES OF AMERICA.

Circuit court of the United States, district of Louisiana.

The President of the United States to James E. Macfarland, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington, on the second Monday of October next, pursuant to a petition and order for appeal, filed in the clerk's office of the circuit court of the United States for the fifth circuit and district of Louisiana, in the case of James E. Macfarland vs. Henry M. Neblett, No. 6440 of the docket of said court, wherein the said Henry M. Neblett is appellant and you are appellee, to show cause, if any there be, why the judgment rendered against the said Henry M. Neblett, as in said petition mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Nathan Clifford, associate justice of the Supreme Court of the United States, this 26th day of May, in the year of our Lord one thousand eight hundred and seventy-three.

E. H. DURELL, *Judge.*

159 (Indorsed:) Hudson & Fearn. United States circuit court. No. 6440. James E. Macfarland vs. Henry M. Neblett. Citation.

Marshal's return.

Received May 27, '73, by the U. S. marshal, and on the 28th day of same month and year served a copy of within citation on Hudson & Fearn, solicitors named herein, by handing the same to E. M. Hudson.

New Orleans, May 28th, 1873.

S. W. REED,
Dy. U. S. Marshal.

On this 28th day of May, 1873, personally appeared before me the subscriber, S. W. Reed, a deputy U. S. marshal, and makes oath that he served a copy of the within citation as stated in his official return hereon.

S. W. REED,
Dy. U. S. Marshal.

Sworn to and subscribed before me—

F. B. VINOT,
U. S. Commr.

(Indorsement on cover:) No. 299. Henry M. Neblett, appellant, vs. James E. Macfarland. Louisiana C. C. U. S. Filed 23 October, 1873.

REC. 299—5

BRIEF FOR APPELLEE.

In the Supreme Court

OF THE UNITED STATES.

No. 299.

HENRY M. NEBLETT, APPELLANT,

versus

JAMES E. McFARLAND.

Appeal from the Circuit Court of the United States for the District of Louisiana.

JNO. A. CAMPBELL,
E. M. HUDSON,
WALKER FEARN,
For Appellee.

A. W. Hyatt, Printer and Stationer, 38 Camp Street, N. O.

In the Supreme Court

OF THE UNITED STATES.

No. 299.

HENRY M. NEBLETT, APPELLANT,

versus

JAMES E. McFARLAND.

Appeal from the Circuit Court of the United States for the District of Louisiana.

BRIEF FOR APPELLEE.

The plaintiff claims that a deed purporting to have been made to the defendant by him shall be cancelled. The defendant insists that this deed for a plantation in Louisiana, called "Mossland," is a valid conveyance by the plaintiff to him of the plantation, and that he gave up a bond of the plaintiff as the consideration. The question arises in this case: was this a *sale* of the plantation to the defendant by the plaintiff, to pay his bond

in favor of Sterling Neblett? The facts are simple. In the year 1868, Sterling Neblett, father of the defendant, commenced a correspondence with the plaintiff, in which he represents himself to be the holder of the bond, and proposes to the plaintiff that he should make a deed in the form of that before the Court, in order that he, Sterling Neblett, might settle the affairs of the plaintiff which were involved. The plaintiff was in Europe at the time. The plaintiff assents to the proposition of Sterling Neblett, and defines the conditions on which he sends the deed to Sterling Neblett. Sterling Neblett pretends to have the bond and to be the only person concerned in the deed and debt. Nearly or quite one year elapses before the father, Sterling Neblett, or the defendant, Henry M. Neblett, consents to accept or act upon the deed.

At the end of the year the defendant, who was not known as the creditor of the plaintiff, when the correspondence commenced and the deed was made, concludes to make a purchase of the plantation —— to surrender the bond-debt described in the correspondence of 1868, as his father's, and takes possession of the property as the owner.

To this contract there has not been any consent.

The deed was not made upon any such consideration or condition.

The delivery for such an object is a fraud, a breach of confidence.

As soon as reported to the plaintiff it was repudiated and its validity denied.

The material fact in the inquiry is, that at the beginning, the *defendant* was not represented as a creditor, or in anywise considered as a party in the negotiation.

The motive for the arrangement proposed by Sterling Neblett, was to collect *his* debt without further expense. He speaks of a deed of trust, and the necessity for a new trustee.

He, Sterling Neblett, asks *his* debtor to unite in the appointment of the trustee. To render the foreclosure of the deed of trust unnecessary, he proposes to have an absolute deed made to his son. He proposes to buy up outstanding claims on "Mossland" and to sell it for the mutual benefit of Wm. H. Macfarland and himself, *he* promising to surrender the plaintiff's bond and releasing him from debt. "We will be even," he says.

Twelve months afterwards the transaction becomes simplified into a mere *sale* from the plaintiff to the defendant without conditions or reciprocal obligations.

The answer to such a case is that there never has been such a contract. The entire negotiation had a different aspect; and a deed thus acquired and thus perverted from the purpose for which it was made is a fraud.

The plaintiff consents to make a deed which will enable Sterling Neblett to settle with Broussard, to sell the lands, and divide the proceeds. *He* says: I will keep the deed and surrender the bond. The transaction contemplated involved fiduciary relations between the plain-

tiff, his creditors, and his trustee. The trustee deals with it as an independent contract of bargain and sale between the plaintiff and Sterling Neblett's son, with whom the plaintiff had no correspondence, and was not aware that he held with him any relations or was under any onerous obligation to him.

It is apparent that the parties to this procedure went into the negotiation and completed the arrangement in the form in which it is presented upon the answer, with *fraudulent views*, and that they have acquired their title by fraud.

It was a fraud upon the plaintiff by holding forth the expectation that he would be absolved from debts, that his creditors were contented, and that the interests of all would be protected and cared for, by the agency of Sterling Neblett having, as accessory means, a title to the property vested in his son, His son, to all appearance, was an indifferent person. The bond is spoken of as the property of Sterling Neblett, and *not* as the property of Henry M. Neblett, the defendant. It was Sterling Neblett who would go to Louisiana, buy the claim of Broussard, sell the property, pay the debts and relieve the plaintiff. When the deed reaches this country from London, Sterling Neblett's ardour abates. He is surprised that it comes to him at all. He inquires who is to pay the expense of the making of the deed? He will not retain it in his possession. He does not give it to Henry M. Neblett. He does not go to Louisiana, nor settle with Broussard, nor sell the lands. Henry M. Neblett goes to Louisiana,

not as owner of the land, but as representing the debt due by the plaintiff.

He, Henry M. Neblett, asserts no title under the deed, and up to *this* date we do not hear of his ownership of the bond. In February, 1869, that fact is referred to with some sort of asperity, by Sterling Neblett, as a sort of satisfaction, that he was not interested at all in the urgent pressing and imperious demands he was making upon the plaintiff.

What was the state of the case at this time? Was the deed operative at all, or in what manner, and for what purpose? No one seems to have accepted it, or to have acted on it. The object that the plaintiff had in view was not fulfilled in any particular. His debts still hung over him.

In August, 1869, Sterling Neblett procures the deed from Wm. H. Macfarland, in whose custody it had been, delivers it to his son, Henry M. Neblett, and requires his son to write the word "paid" on the bond.

His son, Henry M. Neblett, tells in his answer, that this was a regular purchase of the property, because of his surrender of the bond his father had given to him.

This whole transaction in August, 1869, is the concoction of Sterling Neblett to convey the property to his son without any concomitant obligation or duty to any person.

The law in reference to such a case is clear. "It has long been settled," says Lord Eldon, "that if a conveyance has been obtained by means, which, in this Court,

have the character of imposition, fraud, oppression or undue advantage, the person deriving a title under it is a trustee, and the species of relief is by directing a cancellation." Picket vs. Laggon, 14 Vesey, 234; the cases of Barnesly vs. Ponvell, and Young vs. Peachy, 1 Vesey, Sr., 287, and 2 Atk. 254. Lord Hardwick, in the latter case, said: "There have been a great many cases where a person has obtained an absolute conveyance from another *in order to answer* one particular purpose, *but has afterwards made use of it for another;* that this Court has relieved under the head of fraud, for a practice of this sort is a deceit and fraud which the Court ought to relieve against—the doing it is *dolus malus.*"

The same doctrine is contained in Brown vs. Lynch, 1 Paige, 147; Boyees, Executor vs. Grundy, 2 Alabama Rep. 572; 3 Peters, 220; Cocks vs. Izard, 7 Wallace, 557. Where the cases are cited the courts of equity grant no indulgence, compensation, indemnity in a case of fraud.

The Court must observe that the defendant in this case is kept entirely out of view as a beneficiary-party in the negotiation. The bond which had long been past due, which originally was only assignable and under the law of Mississippi was subject to defenses of every sort, had or possessed before notice of assignment (Revised Code, of Mississippi, 355), is treated by Sterling Neblett, the elder, as still under his control and in his possession.

There is no intimation, until in February, 1869, that the defendant had any interest in that paper. In the

summer of 1869 the defendant appears for the first time, and his first appearance is to take to *himself* the deed, as an independent party, dealing at arms-length with his own father, who directs the operation of the cancellation of the bond by the inscription of the word "Paid" upon the face of it.

The answer seems to consider Sterling Neblett as a, STRANGER to the defendant. The defendant claims to have no information or knowledge of the negotiations, promises, or of any portion of the correspondence. He concludes to take a deed of a year old for property, and to surrender the bond which his father had given him two years before. In the answer he studiously avoids the acknowledgement of information on the subject. But a man cannot take the benefit of a contract made by an agent, and repudiate the fraud on which it was built. If the agent, at the time of the contract, makes any representation or declaration touching the subject matter, it is the representation or declaration of the principal. The statements of the agent, which are involved in the contract as its foundation and inducement, are in law the statements of the principal. The principal cannot separate the contract itself from that by which it was induced. Kerr on frauds, 112-114. The acts and declarations of Sterling Neblett are to be regarded as those of the defendant.

We find a most painful manifestation of his overreaching, scheming nature in the various letters from 1868

until 1869, when the son is brought upon the field to adopt the deed as a *sale* for the *bond.*

The conduct of the parties for nearly a year is incompatible with any notion that a sale by the plaintiff to the defendant was contemplated by either as having been made, or as expected by either.

The case is simply one for cancellation. All parties may be placed *in statu quo.*

The defendant had prompt notice from the plaintiff that the proposed change was not acceptable, and that he would not be allowed to treat the deed as a deed of bargain and sale.

The suit offers to restore the bond in the same condition and with the same obligation which it had in 1869, not affected by the cancellation.

The rights of Wm H. Macfarland will not be affected by the decree, and such reservations may be made as may protect them entirely.

Nor do we ask for any decree in reference to the amount due on the bond, which, by the law of Mississippi, is plainly usurious. We ask for a simple decree of cancellation, with an account for the period that the defendant has had possession, reserving all other rights and equities.

Respectfully submitted by

JNO. A. CAMPBELL,
E. M. HUDSON,
WALKER FEARN,
For Appellee.

APPELLANT'S BRIEF.

SUPREME COURT OF THE UNITED STATES,

No. 299.

HENRY M. NEBLETT, APPELLANT,

versus

JAMES E. McFARLAND.

Appeal from the Circuit Court of the United States for the District of Louisiana.

W. ALEX. GORDON,

For Appellant.

A. W. Hyatt, Printer and Stationer, 38 Camp Street, N. O.

In the Supreme Court

OF THE UNITED STATES.

No. 299.

HENRY M. NEBLETT, APPELLANT,

versus

JAMES E. McFARLAND.

Brief of Appellant.

The history of this case, as set forth in the Record, may be recapitulated in a few words—

James E. McFarland. the complainant, purchased a certain sugar plantation, known by the name of Mossland, in the Parish of St. Martin, State of Louisiana, in January, 1857, which place he cultivated until 1861, when he abandoned it and absented himself from the country, allowing the property to go to ruin, and making no provision for his many creditors.

In September, 1869, at the instance of Dr. Sterling Neblett, the father of the appellant, he executed a deed for the said plantation, which, it is alleged, was blank

as far as the name of the purchaser, but as it appears in the Record, (page 10,) contained the name of Henry M. Neblett, as vendee.

The consideration being the return and cancellation of a bond, (marked exhibit F.), given by James E. McFarland to Sterling Neblett, and by him transferred to his son Henry, who remained in undisturbed possession and enjoyment of the property till the institution of this suit for the re-conveyance of the property in May, 1871.

The ground for the demand contained in the bill of complaint, that the sale should be annulled, is stated by complainant himself, (page 24 Record,) to be that he intended that his uncle, William H. McFarland, should have a half interest in the property in liquidation of a claim that he held against complainant, and that the deed of transfer to Henry M. Neblett, was a perversion from its original intent.

Without denying the original intention of the parties, we assert that the letters and testimony introduced by complainant, in the Record, show that not only appellant, but his father, Sterling Neblett, have acted in this whole matter, with perfect good faith, and even with great kindness, consideration, and forbearance towards the McFarlands, uncle and nephew.

The condition of the property was such that William H. McFarland, declined to assume any share of the responsibility attending the acceptances of the half ownership. There were claims prior to the claims of Neblet and McFarland, bearing on the plantation, arising from

vendor's lien to the extent of $12,000, and a judicial mortgage to the amount of about $3,600, and back taxes for four years, while the place itself was in a ruinous and dilapidated condition, and the country in a distracted state, with little or no sale for property. Under such circumstances, we may well believe that William H. McFarland decided correctly in refusing to become a part owner, and that Hennry M. Neblett erred in acting contrary to the advice of his friends in accepting the sale to him.

The letter of Sterling Neblett, on pages 41 and 42 of Record, gives a pretty clear insight into the state of affairs and incidentally gives us a clue to the probable motive of bringing this suit, viz: That a railroad was expected to pass through and locate a depot thereon, which might so enhance the value of Mossland, as to make its ownership worth a contest.

On the above showing, the case was heard in the Circuit Court; various points made by solicitors for defendant were overruled, and a decree rendered, annulling the sale of the plantation, and declaring it void, and ordering the return of the bond. The Court erring, as we most respectfully suggest, in not making the payment of our bond a condition precedent to the re-conveyance of plantation to complainant, as set forth in our motion for a new trial [page 49, Record,] an amended decree, rendered on March 26th, 1873, does not improve our position in this respect, and on this ground and from this point of the decree, do we appeal and ask for relief.

The return of the bond for fourteen thousand four hundred and sixty-four dollars and fifity-seven cents and interest, unaffected by any credit or endorsement of payment to us, would compel us to go before another tribunal to collect our money. The statute of limitations would be invoked, and we would be left with our rights defined by this decree, and no remedy, or one of doubtful value, difficult and expensive to enforce.

It is an elementary principle that, "he who seeks the aid of a court of equity, must offer to do equity." And "if a plaintiff be obliged to ask the aid of a court of equity to enforce his legal rights, the Court will compel him to do equity, and will only grant relief to the extent of his equitable rights." Ridgway vs. Hays, 5 Cr. C. C., 23.

No court of equity should render such a decree as requires one of the parties to resort to another suit, to enforce the right decreed to be his, more especially in such a case as this, when the instrument to be sued upon would appear on its face, to be barred by the statnte of limitations.

In the case of Vella vs. Rodriguez, 341, 12th Wallace, the Court distinctly decides this point in a more questionable case than ours. In deciding in favor of the complainant, representing six-sevenths of the property, they say that he "is entitled to redeem six-sevenths of the premises *upon paying that proportion of the mortgage debt and interest.*" It is a similar decree that we ask for in this case, respectfully praying this honorable Court to so amend the decree of the Circuit Court as to compel the

complainant to tender and pay into Court the amount of money justly due on defendant's bond, as well as such as may be found to be due on the stated account to be made up by a Master in Chancery, as a condition precedent to the re-conveyance of the property by the appellant to the complainant.

Respectfully submitted,

W. ALEX. GORDON,

For Appellant.